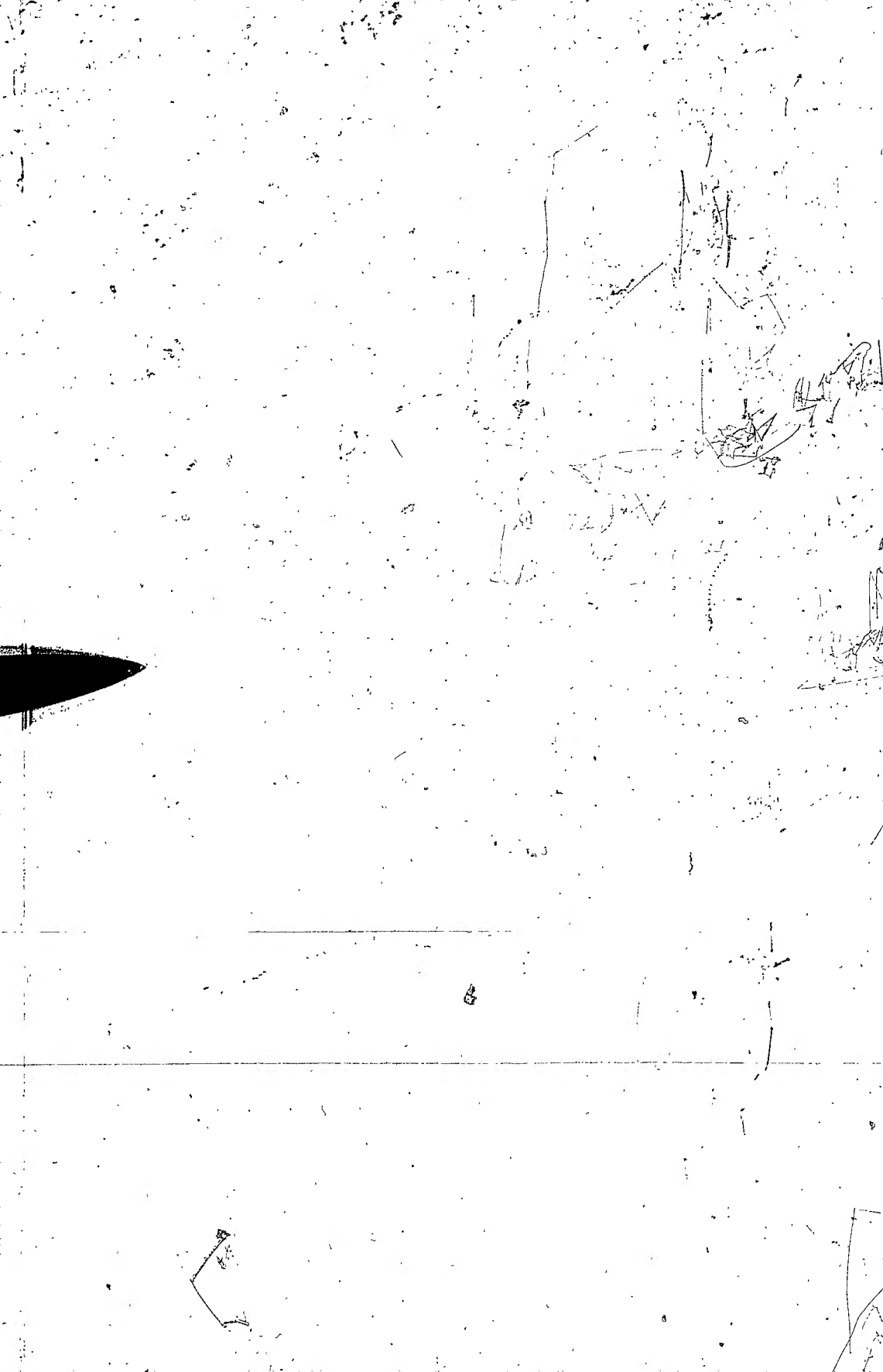
SYNOPSIS

OF THE

MANITOBA SCHOOL CASE



SYNOPSIS

OF THE

MANITOBA SCHOOL CASE

[by the Hon'ble W. R. Scott]

WITH APPENDIX

OF

EXPLANATORY DOCUMENTS

OTTAWA
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CONTENTS

NOTE TO REFERENCES

Blue Book No. 1 is "Judgment of the Judicial Committee of the Privy Council, in the Manitoba School Case," with Factums and other Documents in connection therewith—Session 1893—Printed by Order of Parliament, Sessional Papers Nos. 33*a*, 33*b*.

Blue Book No. 2 is Papers in reference to the Manitoba School Case, presented to Parliament during the Session of 1895, printed by Order of Parliament, 1895.

SYNOPSIS OF THE MANITOBA SCHOOL CASE.

Manitoba became a province of Canada by virtue of an Act passed by the Imperial Parliament of Great Britain in the year 1870, this Act having been first considered, amended and approved by the Parliament of Canada. (*See* Debate on the educational clause, Appendix *A*.)

Neither the Parliament of Canada nor the Legislature of the province of Manitoba have the power to make any alterations or amendments in the Imperial Act referred to.

As reference is sometimes made to the British North America Act under which the other provinces of the Dominion of Canada entered confederation, the educational clauses contained in section 93 of that Act and in section 22 of the Manitoba Act are printed in parallel columns :—

MANITOBA ACT.	BRITISH NORTH AMERICA ACT.
"In and for the province the said legislature may *exclusively* make laws in relation to education, subject and according to the following provisions :—	"In and for each province the legislature may *exclusively* make laws in relation to education, subject and according to the following provisions :—
"(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law *or practice* in the province at the union.	"(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the union.
"(2) An appeal shall lie to the Governor General in Council from any act or decision of the *legislature of the province*, or of any provincial authority, affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.	"(2) All powers, privileges and duties at the union, by law conferred and imposed in Upper Canada on the separate schools and school trustees of the Queen's Roman Catholic subjects, shall be and the same are hereby extended to the dissentient schools of the Queen's Protestant and Roman Catholic subjects in Quebec.
"(3) In case any such provincial law as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then, and in every such case, and as far only as the circumstances of each case may require, the parliament of Canada may make	"(3) Where in any province a system of separate or dissentient schools exists by law at the union, or is hereafter established by the legislature of the province, an appeal shall lie to the Governor General in Council from any act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.

A

remedial laws for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section."

"(4) In case any such provincial law as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor-General in Council, or any appeal under this section, is not duly executed by the proper provincial authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor General in Council under this section."

It has however been decided by the Judicial Committee of the Privy Council of England as well as by the Supreme Court of Canada that the educational clauses in the British North America Act do not apply to Manitoba, the Manitoba Act being the governing Act.

Separate or denominational schools had been in existence before 1870, and it was clearly understood when Manitoba became a province of the Dominion of Canada, that the minority were guaranteed the privilege of separate schools.

In the year 1871 the Legislature of Manitoba passed an Act authorizing the establishment of separate schools, and, in accordance with that Act, the Catholics organized schools in those parts of the province where their numbers justified the establishment of a school.

In the year 1890, the Legislature of Manitoba passed an Act repealing all former Acts relating to education and abolished separate or denominational schools, and established in lieu thereof national schools, for the support and maintenance of which all ratepayers were taxed.

The Federal Administration of Canada have the right under the constitution to disallow any provincial Act if the power is exercised within one year after the passage of that Act.

Cardinal Taschereau and all the Archbishops and Bishops of Canada, petitioned the Federal Administration to disallow the Manitoba Act abolishing separate schools as being *ultra vires*. (*See* Appendix B.) Appeals were also made to the Federal Administration by the Catholic laity of the province praying for the disallowance of the Act; but the Administration declined to interfere, advising the petitioners that it was a legal question which must be settled in the courts of the country. The city of Winnipeg having passed a by-law compelling all ratepayers to pay their taxes to the public schools, Dr. Barrett, a Catholic ratepayer and supporter of separate schools, made an application to the court to quash the by-law as being founded on a statute which was beyond the powers of the Provincial Legislature to pass; his object being to test the validity of the provincial statute abolishing separate schools.

The judge before whom the application was made refused to quash the by-law, holding, in effect, that the Provincial Legislature had supreme power over the subject of education.

Barrett appealed to the Court of Queen's Bench, the highest court in Manitoba, and that court dismissed the appeal.

The case was then carried to the Supreme Court of Canada and that court by a unanimous decision reversed the judgment of the Court of Queen's Bench of Manitoba, in effect deciding that the Act of 1890 abolishing separate schools was *ultra vires* and therefore void. (*See* Commons Return, 17th March, 1892.)

The city of Winnipeg appealed from the decision of the Supreme Court of Canada to the Judicial Committee of the Privy Council of England, the highest court in the British Empire. Six judges of that court heard the appeal; they were:—The Right Hon. Lord Watson, the Right Hon. Lord Hannen, the Right Hon. Lord Macnaghten, the Right Hon. Sir Richard Couch, the Right Hon. Lord Morris, the Right Hon. Lord Shand.

After a full argument by learned counsel, that court reversed the judgment of the Supreme Court of Canada, and, in effect, decided that the Legislature of Manitoba had not exceeded their powers in abolishing separate schools and in establishing public schools, for the support of which all ratepayers were compelled to pay taxes. (*See* Blue Book No. 1 of 1893, page 1.)

The judgment of the Privy Council recites the facts—which were not disputed—and then deals with section 22 of the Manitoba Act and its sub-sections 2 and 3. Reference was also made to the British North America Act of 1867, and the judgment concludes in the following words:—

"Such being the main provisions of the Public Schools Act, 1890, their lordships have to determine whether that act prejudicially affects any right or privilege with respect to denominational schools which any class of persons had by law or practice in the province at the union.

"Notwithstanding the Public Schools Act, 1890, Roman Catholics and members of every other religious body in Manitoba are free to establish schools throughout the province; they are free to maintain their schools by school fees or voluntary subscriptions; they are free to conduct their schools according to their own religious tenets without molestation or interference.

"No child is compelled to attend a public school. No special advantage other than the advantage of a free education in schools conducted under public management is held out to those who do attend.

"But then it is said that it is impossible for Roman Catholics, or for members of the Church of England (if their views are correctly represented by the Bishop of Rupert's Land, who has given evidence in Logan's case), to send their children to public schools where the education is not superintended and directed by the authorities of their church. Roman Catholics or members of the Church of England who are taxed for public schools, and at the same time feel themselves compelled to support their own schools, are in a less favourable position than those who can take advantage of the free education provided by the Act of 1890.

"That may be so. But what right or privilege is violated or prejudicially affected by the law?

"It is not the law that is in fault. It is owing to religious convictions which everybody must respect, and to the teaching of their church, that Roman Catholics and members of the Church of England find themselves unable to partake of advantages which the law offers to all alike.

"Their lordships are sensible of the weight which must attach to the unanimous decision of the Supreme Court.

"They have anxiously considered the able and elaborate judgments by which that decision has been supported.

"But they are unable to agree with the opinion which the learned judges of the Supreme Court have expressed as to the rights and privileges of Roman Catholics in Manitoba at the time of the union.

"They doubt whether it is permissible to refer to the course of legislation between 1871 and 1890, as a means of throwing light on the previous practice, or

on the construction of the saving clause in the Manitoba Act. They cannot assent to the view which seems to be indicated by one of the members of the Supreme Court, that public schools under the Act of 1890 are in reality Protestant schools.

"The legislature has declared in so many words that 'the public schools shall "be entirely unsectarian' and that principle is carried out throughout the Act.

"With the policy of the Act of 1890 their lordships are not concerned. But they cannot help observing that, if the views of the respondents were to prevail, it would be extremely difficult for the provincial legislature, which has been entrusted with the exclusive power of making laws relating to education to provide for the educational wants of the more sparsely inhabited districts of a country almost as large as Great Britain and that the powers of the legislature, which on the face of the Act appear so large, would be limited to the useful but somewhat humble office of making regulations for the sanitary conditions of school houses, imposing rates for the support of denominational schools enforcing the compulsory attendance of scholars, and matters of that sort.

"In the result their lordships will humbly advise Her Majesty that these appeals ought to be allowed with costs.

"In the City of Winnipeg *vs.* Barrett it will be proper to reverse the order of the Supreme Court with costs, and to restore the judgment of the Court of Queen's Bench for Manitoba."

(*See* Blue Book No. 1, page 1, 1893.)

This judgment was delivered on the 30th day of July, 1892, and was accepted by many legal jurists as final and conclusive; though in the opinion of those who were familiar with the clear understanding on which Manitoba became a province of Canada, the judgment was erroneous. (*See* Extract from debate in Parliament of Canada, Appendix A.)

In the month of September, 1892, the Archbishop of St. Boniface and a number of the Catholic laity presented a petition to His Excellency the Governor General in Council, usually known as the Federal Administration or Cabinet, setting forth that, though the courts had upheld the validity of the Act of Manitoba, abolishing separate schools, yet they believed that redress could still be had for the restoration of those rights and privileges in relation to education which had been prejudicially affected by the Acts of the Provincial Legislature and asked for relief under subsections 2 and 3 of section 22 of the Manitoba Act.

The members of the Canadian Administration, usually designated the Government, declined to hear the appeal; presumably on the ground that, as the highest court of the Empire had, in a clear and positive judgment, decided that the Manitoba Legislature had not exceeded its powers in abolishing separate schools, no relief could be granted to the Catholic minority under the circumstances. The Government, however, in order to be fully advised of its powers under the constitution, undertook to refer the following questions to the Supreme Court of Canada for its consideration and for the opinion of the judges of that court :—

"(1) Is the appeal referred to in the said memorials and petitions and asserted thereby, such an appeal as is admissible by subsection 3 of section 93 of the British North America Act, 1867, or by subsection 2 of section 22 of the Manitoba Act, 33 Victoria (1870), chapter 3, Canada?

"(2) Are the grounds set forth in the petitions and memorials such as may be the subject of appeal under the authority of the subsections above referred to or either of them?

"(3) Does the decision of the Judicial Committee of the Privy Council in the cases of Barrett *vs.* The City of Winnipeg and Logan *vs.* The City of Winnipeg dispose of or conclude the application for redress based on the contention that the rights of the Roman Catholic minority which accrued to them after the union under the statutes of the province have been interfered with by the two statutes of 1890 complained of in the said petitions and memorials?

"(4) Does subsection 3 of section 93 of the British North America Act, 1867, apply to Manitoba?

"(5) Has His Excellency the Governor General in Council power to make the declarations or remedial orders which are asked for in the said memorials and petitions assuming the material facts to be as stated therein, or has His Excellency the Governor General in Council any other jurisdiction in the premises?

"(6) Did the Acts of Manitoba relating to education, passed prior to the session of 1890, confer on, or continue to, the minority 'a right or privilege in relation to education' within the meaning of subsection 2 of section 22 of the Manitoba Act, or establish a system of separate or dissentient schools, within the meaning of subsection 3 of section 93 of the British North America Act, 1867, if said section 93 be found applicable to Manitoba; and if so, did the two Acts of 1890 complained of, or either of them, affect any right or privilege of the minority in such a manner that an appeal will lie thereunder to the Governor General in Council?"

The case was argued by able counsel on each side, and that court, by a majority of its members, decided that, in view of the decision of the Judicial Committee of the Privy Council of England in the case of Barrett *vs.* The City of Winnipeg, the constitution did not provide any redress for the Catholic minority, and that an appeal did not lie to the Privy Council of Canada. The judges gave reasons at length for the conclusions they had formed, and answered the questions as follows:—

The present Chief Justice of the court, Sir Henry Strong, who is now also a judge of the Judicial Committee of the Privy Council of England, answered all the questions in the negative.

The Honourable Mr. Justice Taschereau, a learned and highly respected French Catholic judge, gave the following answers:—

Question	No. 1,	he answered	"No."
do	2	do	"No."
do	3	do	"Yes."
do	4	do	"No."
do	5	do	"No."
do	6	do	"No."

He evidently considered that the judgment of the Privy Council of England was a mistake, but it was irrevocable and could not be disturbed.

Mr. Justice Taschereau is giving his judgment, after reciting the facts of the case, continued as follows:—

"With all these, and kindred considerations, we, here, in answering this consultation, are not concerned. The law has authoritatively been declared to be so, and with its consequences, we have nothing to do. *Dura lex, sed lex. Judex non constituitur ad leges reformandas. Non licet judicibus de legibus judicare, sed secundum ipsas.* The Manitoba legislation is constitutional, therefore it has not affected any of the rights and privileges of the minority, therefore the minority has no appeal to the federal authority. The Manitoba legislature had the right and power to pass that legislation; therefore, any interference with that legislation by the federal authority would be *ultra vires* and unconstitutional."

In referring to section 22 of the Manitoba charter on the rights and privileges referred to, he states:—

"However, from these reasons the petitioners are now precluded. If any of their rights and privileges had been prejudicially affected this legislation would be *ultra vires;* and it is settled that it is not *ultra vires.*"

"I take up now the first of these questions: 'Does the right of appeal claimed by the petitioners exist under section 22 of the Manitoba Act?' And here again, in my opinion, the answer must be the negative, for the reason that it is conclusively determined, by the judgment of the Privy Council, that the Manitoba legislation does not prejudicially affect any right or privilege that the Catholics had by law or practice at the union, and, if their rights and privileges are not affected, there is no appeal."

Mr. Justice Gwynne, after reciting the judgment of the Privy Council of England in the case of Barrett *vs.* Winnipeg, answers the questions in the following manner:

The 1st, 2nd, 4th and 5th, he answered in the negative; the 3rd, in the affirmative, and the 6th, which he regarded as a complex one, he answers as follows:—

"The Acts of 1890 do not, nor does either of them, affect any right or privilege of a minority in relation to education within the meaning of subsection 2 of section 22 of the Manitoba Act in such manner that an appeal will lie thereunder to the Governor General in Council. The residue of the question is answered by the answer to question No. 4."

The minority of the court—Judge King and Judge Fournier—took an opposite view and were of opinion that an appeal did lie to the Governor General in Council.

From the above judgment the Catholic minority appealed to the Lords of the Judicial Committee of the Privy Council of England. The judges present on that occasion were the Lord Chancellor, Lord Watson, Lord Macnaghten and Lord Shand. The case was argued by counsel representing the Catholic minority and by counsel representing the Government of Manitoba. The judgment was delivered on the 29th day of January, 1895, by the Lord Chancellor, who after reviewing all the facts and commenting on the Manitoba Act of 1870, concluded the judgment in the following language:—

"Mr. Justice Taschereau says that the legislation of 1890, having been irrevocably held to be *intra vires* cannot have 'illegally' affected any of the rights or privileges of the Catholic minority. But the word 'illegally' has no place in the subsection in question. The appeal is given if the rights are in fact affected.

"It is true that the religious exercises prescribed for public schools are not to be distinctively Protestant, for they are to be 'non-sectarian,' and any parent may withdraw his child from them. There may be many too, who share the view expressed in one of the affidavits in Barrett's case, that there should not be any conscientious objections on the part of Roman Catholics to attend such schools, if adequate means be provided elsewhere of giving such moral and religious training as may be desired. But all this is not to the purpose. As a matter of fact, the objection of Roman Catholics to schools such as alone receive State aid under the Act of 1890 is conscientious and deeply rooted. If this had not been so, if there had been a system of public education acceptable to Catholic and Protestants alike, the elaborate enactments which have been the subject of so much controversy and consideration would have been unnecessary. It is notorious that there were acute differences of opinion between Catholics and Protestants on the education question prior to 1870. This is recognized and emphasized in

almost every line of those enactments. There is no doubt either what the points of difference were, and it is in the light of these that the 22nd section of the Manitoba Act of 1870, which was in truth a parliamentary compact, must be read.

"For the reasons which have been given, their Lordships are of opinion that the 2nd subsection of section 22 of the Manitoba Act is the governing enactment, and that the appeal to the Governor General in Council was admissible by virtue of that enactment on the grounds set forth in the memorials and petitions, inasmuch as the Acts of 1890 affected rights or privileges of the Roman Catholic minority in relation to education within the meaning of that subsection. The further question is submitted whether the Governor General in Council has power to make the declarations or remedial orders asked for in the memorials or petitions, or has any other jurisdiction in the premises. Their Lordships have decided that the Governor General in Council has jurisdiction, and that the appeal is well founded, but the particular course to be pursued must be determined by the authorities to whom it has been committed by the statute. It is not for this tribunal to intimate the precise steps to be taken. Their general character is sufficiently defined by the 3rd subsection of section 22 of the Manitoba Act.

"It is certainly not essential that the statutes repealed by the Act of 1890 should be re-enacted, or that the precise provisions of these statutes should again be made law. The system of education embodied in the Acts of 1890 no doubt commends itself to, and adequately supplies, the wants of the great majority of the inhabitants of the province. All legitimate grounds of complaint would be removed if that system were supplemented by provisions which would remove the grievance upon which the appeal is founded, and were modified so far as might be necessary to give effect to these provisions.

"Their Lordships will humbly advise Her Majesty that the questions submitted should be answered in the manner indicated by the views which they have expressed."

"There will be no costs of this appeal."

In their report their Lordships answer the questions that were submitted to them in the following manner:—

"The Lords of the Committee in obedience to Your Majesty's said general order of reference, have taken the said humble petition and appeal into consideration, and having heard counsel for the parties on both sides, their Lordships do this day agree humbly to report to Your Majesty as their opinion that the said questions hereinbefore set forth ought to be answered as follows:—

"(1.) In answer to the first question:—That the appeal referred to in the said memorials and petitions, and asserted thereby is such an appeal as is admissible under subsection 2 of section 22 of the Manitoba Act, 33 Vict. (1870), c. 3, Canada."

"(2.) In answer to the second question:—That grounds are set forth in the petitions and memorials, such as may be the subject of appeal under the authority of the subsection of the Manitoba Act immediately above referred to."

"(3.) In answer to the third question:—That the decision of the Judicial Committee of the Privy Council in the cases of Barrett *vs.* The City of Winnipeg, and Logan *vs.* The City of Winnipeg *does not dispose of, or conclude, the application for redress* based on the contention that the rights of the Roman Catholic minority, which accrued to them after the union under the statutes of the province, have been interfered with by the two statutes of 1890 complained of in the said petitions and memorials."

"(4.) In answer to the fourth question:—That subsection 3 of section 93 of the British North America Act, 1867, *does not apply to Manitoba.*"

"(5.) In answer to the fifth question:—That the Governor-General in Council has jurisdiction *and the appeal is well founded*, but that the particular course to be pursued must be determined by the authorities to whom it has been committed by

the statutes; that the general character of the steps to be taken is sufficiently defined by subsection 3, of section 22 of the Manitoba Act, 1870."

"(6.) In answer to the sixth question:—That the Acts of Manitoba relating to education passed prior to the session of 1890 *did confer on the minority a right or privilege in relation to education within the meaning* of subsection 2 of section 22 of the Manitoba Act, which alone applies; that the two Acts of 1890 complained of did affect a right or privilege of the minority: *in such a manner that an appeal will lie thereunder* to the Governor General in Council.

"And in case Your Majesty should be pleased to approve of this report, then their Lordships do direct that the parties do bear their own costs of this appeal, and that the sum of £300 sterling so deposited by the appellants as aforesaid, be repaid to them."

(*See* page 1, Blue Book No. 2.)

It may here be observed that the first judgment of the Privy Council of England declared in positive language that the Manitoba Act of 1890 abolishing separate schools was *intra vires* and, consequently, that the Legislature had the power to tax all ratepayers for the support of the public schools, and the judgment in effect states that "no right or privilege of the minority is violated or prejudicially affected by the law."

The second judgment upholds the first one in admitting that the Manitoba Legislature had the power to pass the Act of 1890 abolishing separate schools and, while conceding that the Catholics had grievances which the Canadian Cabinet might hear, the judgment fails to deal with the constitutional difficulty that presents itself in considering how those grievances are to be remedied.

The Canadian Cabinet is of course powerless to act or to do more than to hear the appeal, to make a decision and to communicate the decision to the provincial authorities; the enforcement rests with the Parliament of Canada which is free to exercise any action it may think proper, or it may decide to take no action, and the judgment does not even define the jurisdiction that the Federal Parliament might possess, but in a vague way refers to the 3rd subsection of section 22 of the Manitoba Act.

Having in view the clear and positive principles laid down in the first judgment it must be conceded that the second judgment is somewhat involved; but the concluding paragraph indicates that the Separate School Acts need not be re-enacted but states that "All legitimate grounds of complaint would be removed if that system were supplemented by provisions which would remove the grievance upon which the appeal is founded, and were modified so far as might be necessary to give effect to these provisions."

In considering this question it must be remembered that the Federal Parliament—even if willing to do so—has not the power to restore to the Catholic minority all the "rights and privileges" they formerly enjoyed. It is universally admitted that the Federal Parliament could not force the Provincial Legislature to give to Catholic schools any share in the grants annually voted by that Legislature for education—without which aid many of the schools could not be sustained.

The Judicial Committee of the Privy Council having thus decided that the Governor General in Council (the Canadian Cabinet) had the power to hear the appeal, the petition of the Catholic minority was taken into consideration and an order was made declaring that the Act passed by the Legislature of Manitoba on the 1st May, 1890, respecting education, affected the rights and privileges of the Catholic minority in the following particulars, namely:—

"(*a*) The right to build, maintain, equip, manage, conduct and support Roman Catholic schools in the manner provided for by the said statutes, which were repealed by the two Acts of 1890 aforesaid.

"(*b*) The right to share proportionately in any grant made out of the public funds for the purpose of education.

"(*c*) The right of exemption of such Roman Catholics as contribute to Roman Catholic schools from all payment or contribution to the support of any other schools."

On the 21st March, 1895, a communication was sent to the Lieutenant Governor of the province of Manitoba for the information of the Government and Legislature of that province, informing the Government and Legislature that in the opinion of the Government of Canada it was the duty of the Legislature to restore to the Catholic minority the rights and privileges before referred to, and intimating that unless redress was given that the Federal Parliament of Canada might be invoked to pass such legislation as would restore to the minority their rights and privileges.

The communication was answered by the Government and Legislature of Manitoba refusing, for the reasons given, to acquiesce in the demand made upon them by the Federal Administration. Among other reasons given were the following:—That the Roman Catholic separate schools were found to be inefficient—that as conducted under the Roman Catholic section of the Board of Education they did not possess the attributes of efficient modern public schools—that the conduct, management and regulations of the schools were defective; and as a result of leaving a large section of the population with no better means of education than was thus supplied, many people grew up in a state of illiteracy.

The Manitoba answer states further:—

"So far as we are aware there has never been an attempt made to defend these schools on their merits, and we do not know of any ground upon which the expenditure of public money in their support could be justified.

"We are therefore compelled to respectfully state to Your Excellency in Council that we cannot accept the responsibility of carrying into effect the terms of the Remedial Order.

"Objections upon principle may be taken to any modification of our educational statutes which would result in the establishment of more sets of separate schools. Apart, however, from the objections upon principle there are serious objections from a practical educational standpoint. Some of these objections may be briefly indicated:

"We labour under great difficulties in maintaining an efficient system of primary education. The school taxes bear heavily upon our people. The large amount of land which is free from school taxes and the great extent of country over which our small population is scattered present obstacles to efficiency and progress.

"The reforms effected in 1890 have given a strong impetus to educational work, but the difficulties which are inherent in our circumstances have constantly to be met. It will be obvious that the establishment of a set of Roman Catholic schools, followed by a separate set of Anglican schools and possibly Mennonite, Icelandic and other schools, would so impair our present system that any approach to even our general standard of efficiency would be quite impossible. We contemplate the inauguration of such a state of affairs with very grave apprehension. We have no hesitation in saying that there cannot be suggested any measure which, to our minds, would more seriously imperil the development of our province.

"We believe that when the Remedial Order was made, there was not available then to Your Excellency in Council full and accurate information as to the working of our former system of schools.

"We also believe that there was lacking the means of forming a correct judgment as to the effect upon the province of changes in the direction indicated in the order.

"Being impressed with this view, we respectfully submit that it is not yet too late to make a full and deliberate investigation of the whole subject. Should such a course be adopted, we shall cheerfully assist in affording the most complete information available. An investigation of such a kind would furnish a substantial basis of fact upon which conclusions could be formed with a reasonable degree of certainty.

"It is urged most strongly that upon so important a matter, involving, as it does, the religious feelings and convictions of different classes of the people of Canada, and the educational interests of a province which is expected to become one of the most important in the Dominion, no hasty action should be taken, but that, on the contrary, the greatest care and deliberation should be exercised and a full and thorough investigation made.

"While we do not think it proper to enter upon a legal argument in this memorial, we deem it our duty to briefly call attention to some of the legal and constitutional difficulties which surround the case. It is held by some authorities that any action taken by the Parliament of Canada upon the subject will be irrevocable. While this opinion may or may not be held to be sound, it is in our judgment only necessary to point out that there are substantial grounds for entertaining such an opinion, in order to emphasize the necessity for acquiring a more ample knowledge of the facts before any suggestion of parliamentary action is made.

"It will be admitted that the two essentials of any effective and substantial restoration of Roman Catholic privileges are:—

"1. The right to levy school taxes.

"2. The right to participate in the legislative school grant; without these privileges the separate schools cannot be properly carried on, and without them, therefore, any professed restoration of privileges would be illusory.

"It may be held that the power to collect taxes for school purposes conferred upon school boards by our former educational statutes was conferred by virtue of the provisions of subsection (2) of section 92 of the British North America Act, and not by virtue of the provisions of section 22 of the Manitoba Act. If this view be well founded, then that portion of the Act of 1890 which abolished the said right to collect taxes is not subject to appeal to Your Excellency in Council, and the Remedial Order and any subsequent legislative act of the Parliament of Canada (in so far as they may purport to restore the said right) will be *ultra vires*.

"As to the legislative grant we hold that it is entirely within the control of the legislature of the province that no part of the public funds of the province could be made available for the support of separate schools without the voluntary action of the legislature. It would appear therefore that any action of the Parliament of Canada looking to the restoration of Roman Catholic privileges must, to be of real and substantial benefit, be supplemented by the voluntary action of the provincial legislature.

"If this be the case, nothing could be more unfortunate from the standpoint of the Roman Catholic people themselves, than any hasty or peremptory action on the part of the Parliament of Canada, because such action would probably produce strained relations and tend to prevent the possibility of restoring harmony.

"We respectfully suggest to Your Excellency in Council that all of the above considerations call most strongly for full and careful deliberation, and for such a course of action as will avoid irritating complications.

(*See* Blue Book No. 2 of 1895, page 353.)

The foregoing communication was received at Ottawa before the end of June, 1895. Parliament was then in session and did not rise till the 22nd July. Pressure was brought to bear on the Government to introduce Remedial

Legislation, but the Cabinet was unwilling to coerce Manitoba. Three Cabinet Ministers resigned, giving as a reason the insincerity of other members of the Cabinet on this question. Two of the ministers withdrew their resignations on an assurance that Remedial Legislation would be introduced at a special session to be called in the following January.

Parliament accordingly met on the 2nd January, 1896, but, a few days after a crisis occurred when seven Protestant members of the Cabinet who were known to be opposed to Remedial Legislation resigned office. The crisis continued for several days when they withdrew their resignations.

A Remedial Bill was announced, but not presented for some time later—it being the 2nd March before the Bill was brought before the House for a second reading.

The Bill contained 112 clauses and it was evident that, as the life of Parliament terminated on the 24th of April, 1896, it was impossible to pass such a measure. Only about 15 sections were considered and about 40 amendments were made and carried; showing how imperfect the Bill was and illustrating the difficulties in making the Bill workable. Among the reasons that actuated the opponents of the measure, the following may be referred to:

That it was an interference with provincial rights and therefore unconstitutional;

That the Catholics being only one-seventh of the population the law could not be enforced against the will of the provincial and municipal authorities;

That the province would contest the validity of the Act in the courts, and the agitation and bitter feeling that had arisen would thus be continued for many years longer.

It was well understood that many members who voted for the second reading of the Bill were anxious to see the Bill defeated in Committee. By some members it was regarded as a scheme to secure Catholic votes at the general election then approaching.

By many jurists the Bill was considered unworkable, and it was felt that, if the then existing strong feeling was allowed to subside, the Manitoba Legislature when appealed to in a conciliatory spirit, would from time to time so far modify its school laws as to restore to the Catholics many of the privileges they claimed.

As an evidence of the determination of the Manitoba Legislature to contest the validity of the Remedial Bill, that body on the 26th February, 1896, while Parliament was considering the measure, adopted a resolution by a vote of 31 to 7, most solemnly protesting against the passage of the Remedial Act which had been introduced into the House of Commons of Canada and giving many reasons for the expression of that opinion, concluding the resolution in the following words:—

> "That the said Act is an unnecessary and unjustifiable attack upon the constitutional rights of the Legislature, and people of Manitoba, and indirectly upon the constitutional rights of the Legislature and people of every province of the Dominion, and a violation of the principle of provincial autonomy, which is without precedent in the history of the Dominion."

The hostile attitude assumed by Manitoba had the sympathy of a large majority of the Protestant element of the Dominion of Canada who were opposed to the coercion of that province, and especially so because a majority of the Protestants of Canada are by principle in favour of public schools.

The Federal Cabinet, finding the opposition to the Bill so strong, withdrew the measure, confessing their inability to carry it.

While the Bill was being considered by Parliament the Federal Administration, recognizing the constitutional difficulties in the way of Federal Legislation, sent a deputation of its members to Manitoba to confer with the Government of that province and ascertain what concessions would be granted. A reference to the proposals in Appendix C attached will show the limited privileges the Federal ministers were willing to accept for the sake of a peaceful settlement. The offer then made met with the approval of the Catholic press and, presumably, of the Catholic prelates and laity, as no dissent was expressed at the time; and, if the terms proposed had been accepted, this burning question would have been removed from further controversy. A comparison is particularly requested of the terms then proposed as set forth in Appendix C and those now agreed upon between the present Liberal Administration and Manitoba as set forth in Appendix E. Parliament was dissolved on the 24th April. A new election followed in which the Conservative government, that had held office for nearly 18 years, was defeated.

Notwithstanding the active opposition of many of the prelates of their church, a large majority of the Catholic electors voted for the Liberal candidates: a proof of that fact is given by the returns.

The Federal Parliament consists of 213 members, only 65 being Catholics —45 of that number being Liberals and 20 Conservatives.

It will therefore be apparent that a large majority of the Catholic laity support the conciliatory policy of the present Liberal Administration in making terms with Manitoba; assured, as they believe, that these concessions will be extended and enlarged in the future, until all grievances shall have been forgotten.

The Catholic laity are confirmed in this belief from a knowledge of what has occurred in the other Protestant provinces—Ontario, New Brunswick, Nova Scotia and Prince Edward Island, where concessions have from time to time been extended through the good-will of the Protestant majority.

In considering this question it must be borne in mind that while in the year 1870 the Catholic and Protestant population of Manitoba were equal; yet the last census taken in 1891 showed that out of a total population of 152,506 there were only 20,511 Catholics distributed through ninety large municipalities, and this disproportion has been yearly increasing. And when it is remembered that Manitoba is twice as large as Portugal, six times larger than Belgium, and larger than England and Wales, it must be conceded that Catholics can only hope to maintain schools in those centres of population where their numbers justify it; and that necessarily in such a sparsely settled country a considerable number of Catholic children must attend mixed schools or be deprived of all education.

According to the last official returns issued by the Superintendent of Catholic schools (before their abolition), from August to December, 1889, the total number of Catholic schools was distributed as follows:—

City of Winnipeg	11
Town of St. Boniface, including 1 each in the North, South and West of St. Boniface	10
St. Norbert	7
Total	28
In all other parts of the province only	69
	97

The total number of children on the rolls as attending those schools was 3,316, but the average attendance was only 2,267. Taking the whole school population at the official figures as given in the Government Statistical Year Book for 1894, namely 36,459, it will be observed that with a Catholic population of one-seventh, the Catholic children should number 5,208, while only 3,316 were on the rolls; it must therefore be evident that nearly 2,000 Catholic children either did not attend any school or attended the public schools.

The returns show that Catholic schools were formed chiefly in those districts that were either exclusively Catholic or where they formed the majority.

The public schools of Manitoba are under the local control of three trustees elected by the ratepayers. The only qualifications required for a trustee are that he must be a ratepayer over 21 years, and be able to read and write. In Catholic settlements where they are in the majority they can elect their own trustees, who will of course appoint a Catholic teacher. The Government does not interfere in the selection of the teacher, provided he holds a certificate of qualification. The schools are periodically—perhaps once a month or not as often—visited by an inspector whose duty is to see that the school has the average attendance to entitle it to Government aid and that the teacher is attending to his duties, and to hear complaints if any.

The books in use are such as the Department of Education approve of; but the Government of Manitoba agree that the books shall be unobjectionable to Catholics.

It must be obvious that a school consisting exclusively of Catholic children controlled by three Catholic trustees with a Catholic teacher, visited only at long periods by an inspector who has no motive for interference with its internal management—that such a school cannot be under any very serious disadvantage simply because it is called a public school and, even if there is a rule that religious instruction is not to commence earlier than half past three o'clock, there is no rule limiting the period to four o'clock if the people desire an extension of the time.

It cannot be denied that many schools existed in Manitoba under just those conditions receiving a *per capita* share of the annual grant for education.

By reference to the papers in the Manitoba school case presented to Parliament in the session of 1895, Blue-book No. 2, at page 175, the following list of French Catholic schools which had then accepted the public school system appears:—

List of French schools in the Province of Manitoba which have accepted the public school system:—

1.	St. Jean-Baptiste, North	St. Jean-Baptiste Post Office.
2.	Deux Petites Pointes	Letellier "
3.	St. Charles	St. Charles "
4.	St. François Xavier, East	St. François Xavier "
5.	St. Eustache	St. Eustache "
6.	Fairbanks	Baie St. Paul "
7.	St. Léon Village	St. Léon "
8.	St. Léon, East	Manitou "
9.	Theobald	Somerset "
10.	Decorby	Fort Ellice "
11.	St. Alphonse, South	St. Alphonse "
12.	St. Laurent No. 1	St. Laurent "
13.	St. Laurent No. 2	" "
14.	St. Boniface, West	St. Vital "
15.	Kinlough	Starbuck "

LIST of French schools which adopted the public school system.—*Continued.*

16. Martineau ..... Water Hen River, Indian Reserve.
17. St. Raymond ..... Giroux Post Office.
18. St. Vital ..... St. Boniface Post Office.
19. Glengarry ..... Ingleside (Scotch Catholics).
20. Fannystelle ..... Fannystelle.
21. Bernier ..... St. Mark's.
22. Camper ..... Minnewakan (Mixed).
23. St. Antoine ..... Ste. Agathe.
24. St. Hyacinthe ..... La Salle, "
25. Arsenault ..... Oak Lake, "
26. Deleau ..... Deleau, "
27. Maffam ..... Deleau, "
28. Routledge ..... Routledge "
29. St. Urbain ..... St. Alphonse (school not yet built).
30. Canadaville ..... Dauphin Road, " " "
31. Hamelin ..... Ste. Rose du Lac.
32. St. Felix ..... Deloraine.
33. St. François Xavier, West ..... St. François Xavier.
34. Huns Valley ..... Huns Valley (school building).
35. Gascon ..... Clarkleigh.
36. Courchène ..... Oak Lake (organization not complete).

It would thus appear that in the year 1894, about one-half of all the separate schools outside of Winnipeg, St. Boniface and St. Norbert had adopted the public school system.

The Public School Law of Manitoba declares that all clergymen are *ex officio* school visitors within the districts in which they have pastoral charge. The priest may therefore visit the school as often as he pleases. He may attend the quarterly examinations and at the time of such visit may examine the progress of the pupils and the state and management of the schools and give such advice to the teacher and pupils and any others present as he thinks advisable.

(*See* section 201, 202, 203—Public Schools Act of Manitoba.) And under the proposed amendments, as set forth in Appendix E, the priest, or any one whom he appoints, may give religious instruction half after past three o'clock; not only in schools where all the children are Catholics but in all schools in rural districts where there are ten Catholic children, and in cities, towns and villages where there are twenty-five Catholic children. The only exception being that in case there is not a second room in the school-house and that there are Protestant children in the school whose parents desire religious instruction to be given their children, the Catholics are then limited to the half hour instruction on one half of the teaching days in each week.

The proposals made in April, 1896, by the late Conservative Cabinet for the settlement of this question will be found attached to this paper marked Appendix C and were communicated to Parliament in the shape of a Message. Those proposals received the approval of the Catholic minority—all the Catholic Conservative organs had favourable notices of the offer. (*See* appendix marked D.) A comparison of the terms then proposed and the terms now agreed to by the province of Manitoba at the instance of the present Liberal Cabinet is particularly requested.

The late Government proposed that in towns and villages where there were twenty-five Catholic children of school age and in cities fifty such children, they were to be entitled to a separate school-house or separate room and to be taught by a Catholic teacher. No provision whatever is made for religious

teaching, and—in cities where the number of children was less than fifty and in towns and villages where the number was less than twenty-five—there could not be religious teaching of any kind—and no provision whatever is made for the schools in the rural districts.

By the terms now agreed upon, wherever in cities, towns and villages twenty-five Catholic children, and in rural districts where ten such children, attend a school, they are entitled to the half hour religious instruction. In cities and towns where there is an average attendance of forty children, and in villages and rural districts where there is an average attendance of twenty-five children, they are entitled to a Catholic teacher.

The present terms provide for the teaching of the French language where the pupils are French, whereas in the proposal made by the late Government no provision was contained for the teaching of French children in their native language.

The terms agreed upon provide that Catholic children shall not be present at Protestant religious teaching unless the parents desire it, thus protecting Catholic children attending Protestant schools from the danger of proselytism (*See* paragraph 11) whereas the proposals of the late Government made no provision for exempting Catholic children from "the requirements of the regulations as to religious exercises," unless the Catholic children are in a majority in the school—if they were in a minority they would not be exempt. (*See* paragraph 2 of the proposals.)

As to text books, the Manitoba Government have given assurances that they will be unobjectionable to Catholics. That point was conceded in the proposals. (*See* Appendix C, page 34.)

Representation on the Advisory Board. (*See* explanation on Appendix C, page 35.)

The demand for a normal school was not insisted on in the proposals. (*See* Appendix C, page 38.)

There can be no objection to Catholics who are preparing for the position of teachers attending the provincial normal school.

The other proposals were of minor importance. It will, however, be observed that in the last paragraph but one of the proposals made by the Conservative Government (Appendix C, page 32), consent was given that the schools at which Catholics attend were to be public schools and subject to the educational laws of the province.

On referring to the concluding paragraphs of the proposals from the then Canadian ministers at page 39, Appendix C, it will be observed that they were willing to limit religious instruction to a certain time, and so anxious were they for a friendly settlement that they asked the Manitoba Government to make some proposal that could be regarded as affording a chance of settlement which they so earnestly desired, thus giving evidence that the Canadian Government was willing to accept less than the first proposal.

One reason for this anxiety for a settlement was a doubt as to the validity of a Remedial Bill and the fear that even if valid it could not be enforced against the will of Manitoba. One of the commissioners was the Minister of Justice, the Hon. Mr. Dickey, and that he had grave doubts on the efficiency of the Remedial Bill is made clear by reference to a paragraph at page 37, Appendix C, which states:

> "Under the judgment of the Judicial Committee of the Privy Council and the Remedial Order they (the Catholics) certainly have important rights in connection

with separate schools, and while the Dominion Parliament may have jurisdiction to enforce some or all of those rights, it is universally acknowledged that this could be done with more advantage to all parties by the local legislature, and for this reason we are holding this conference."

In view of the efforts made by the late Conservative Administration to obtain a peaceful settlement of this question, it is not consistent nor just nor fair for the friends of that Administration whether clerical or lay to charge the present Liberal Cabinet with betraying the interests of the Catholic minority of Manitoba. The settlement now secured by friendly overtures is at least equal, if not superior, to the settlement the late Conservative Cabinet, with the approval of the Catholic press, was willing to accept. (For opinions of Catholic press *see* Appendix D.)

Those persons who now censure the present Administration for the recent settlement of this question should remember its past history, and the timid and vacillating policy adopted by the late Government who made this question subordinate to the political exigencies of their party. The late Administration had a whole year within which to disallow the Act, and if they did not wish to assume the entire responsibility of disallowance, they could have obtained the advice of the Supreme Court of Canada, and, as the sequel proved, that court would by a unanimous judgment have declared the Manitoba Act of 1890 abolishing separate schools to be *ultra vires* and therefore a proper subject for disallowance. The then premier, the late Sir John Macdonald, took part in the drafting of the Manitoba Act of 1870, and his colleague in the Administration, Sir Mackenzie Bowell, voted on the educational clause when it was discussed in Parliament. They certainly knew what the intention of that Parliament was, and had therefore no reason for having any doubt on the unconstitutionality of the Manitoba Act of 1890. (*See* the Debate and Division list, Appendix A.)

It is believed by many persons that the true reason for non interference was the fear that disallowance would offend their extreme Protestant allies in Ontario, who had, in the year 1890, raised a sectarian agitation against the Liberal Government of that province for its policy in enlarging and improving the separate school system in the province; certain it is that, in the provincial election in Ontario in that year, the chief ground of attack on the Liberal Administration was its alleged liberality towards Catholic separate schools.

The Hon. Mr. Meredith was the provincial leader who was conducting the Conservative campaign on that occasion, and the following extract from the Toronto *Mail* of 24th May, 1890, may explain why the prerogative of disallowance was not exercised:

> "Mr. Meredith deserves great credit for rebuking the pretentions of the Hierarchy in endeavouring to vindicate the rights of the Government and of the Catholic laity; but we are firmly persuaded that the only safe course for the country, is to obtain such constitutional reforms as shall enable it to abolish the separate school system, root and branch, and to introduce the sane and wholesome principles which have helped in no small measure to make the neighbouring republic what it is."

Those prelates of the Catholic Church, who now so bitterly condemn the present Administration for its settlement of this question have no word of censure for the late Government who were in office from the year 1890 up to June, 1896, and who, having omitted to exercise their power of disallowance, permitted year after year to pass without making any effort by friendly negotiations to secure reasonable terms of settlement with Manitoba, until in 1896

a strong Protestant feeling had arisen in the other provinces to oppose the coercion of Manitoba by legislation in the Federal Parliament.

An explanation of the omission to disallow, is sometimes offered by alleging that Mr. Blake's resolution adopted by the House of Commons of Canada on the 29th April, 1890, contemplated non-interference with provincial legislation on "Educational matters."

That resolution reads as follows :

> "It is expedient to provide means whereby, on solemn occasions touching the exercise of the power of disallowance, or of the appellate power as to educational legislation, important questions of law or fact may be referred by the Executive to a high judicial tribunal for hearing and consideration, in such mode that the authorities and parties interested may be represented and that a reasoned opinion may be obtained for the information of the Executive."

The premier, the late Sir John A. Macdonald in that debate used the following language :

> "Of course my honourable friend (Mr. Blake), in his resolution, has guarded against the supposition that such a decision is binding on the Executive. It is expressly stated—and that is one of the instances which shows that this resolution has been most carefully prepared—that such a decision is only for the information of the Government. The Executive is not relieved from any responsibility because of any answer being given by the tribunal. If the Executive were to be relieved of any such responsibility, I should consider that a fatal blot in the proposition of my honourable friend. I believe in responsible government. I believe in the responsibility of the Executive. But the answer of the tribunal will be simply for the information of the Government. The Government may dissent from that decision, and it may be their duty to do so if they differ from the conclusion to which the court has come."

Had the Administration of Sir John A. Macdonald adopted the course outlined by himself as the proper policy to pursue, and submitted to the Supreme Court of Canada the question of the constitutionality of the Manitoba Act of 1890, he could have had an answer from that court, and an answer also from the Privy Council of England before the year expired within which to exercise the power of disallowance. No one knew better than Sir John, that the Act was *ultra vires*, as he had assisted in drafting the clauses of the Manitoba Act, 1870, and never hesitated in expressing the opinion that the Act of 1890 was a violation of the terms on which Manitoba entered the union.

And here it is important to observe that the constitution had provided a remedy for precisely such a case as this, to wit : the power of disallowance and the power carried with it the duty ; for the courts of law were not instituted for the purpose of relieving the government of the day from the responsibilities necessarily devolving upon it. In throwing this question into litigation as if it were one of extreme dubiousness the train was laid for the agitation and confusion which ensued and the question was compromised at the very start. Extraordinary and violent measures were invoked in the end to cover the neglect in applying the simple remedy provided by the constitution.

There can be little doubt that had overtures been made to Manitoba in the year 1891, after the judgment of the Supreme Court declaring the Act of 1890 *ultra vires*, a reasonably fair settlement could have been secured. But the late Government allowed the years 1890,-91-92-93 and 94 to pass without making any serious attempt to secure a friendly settlement. The subject was

allowed to drift and, in the meantime, a strong Protestant feeling was growing in all the provinces, except Quebec, in favour of the stand taken by Manitoba. The constitutional question was lost sight of, and the agitation developed into a determination to resist the coercion of Manitoba by legislation in the Federal Parliament: and while, in 1896, some of the leaders of the Conservative party were honest in their advocacy of Remedial Legislation, yet it is well known that several members of the late Cabinet were secretly opposed to the measure, and that feeling was shared in by many of their Protestant supporters. A reference to the Conservative press will prove the truth of that statement.

After the recent election in June, 1896, and in view of the prevailing public opinion as expressed by the newly elected members and by a large section of the Protestant press of Canada, it was evident that any Government adopting the policy of remedial legislation at the present time would be defeated in Parliament. Even if the 65 Catholic members were a unit on the subject there was no possibility of securing the support of a sufficient number of the Protestant members to carry a Remedial Bill even though the present Government advised the legislation.

And it may here be noted, that if the Parliament of Canada has the constitutional power to restore to the Catholic minority all "the rights and privileges" they claim, and that any future Parliament is disposed hereafter to intervene and enact legislation on the subject, the policy of the present Government in making a friendly settlement with Manitoba will not be a bar to such action by any Parliament that may be elected hereafter.

The last judgment of the Judicial Committee of the Privy Council was regarded as only an expression of opinion by the four judges who heard the argument and had no binding effect on the Parliament of Canada nor on the Legislature of Manitoba. The concluding words of the Imperial Order in Council expressing the approval of Her Majesty the Queen are purely formal, and the non-observance of the recommendations does not involve any disrespect to the Sovereign. The late Government was quite ready to drop the Remedial Bill if they could have made a friendly settlement with Manitoba and they therefore did not regard the Imperial Order as binding. The Government of Canada had submitted certain questions for the opinion of the judges of the Supreme Court of Canada and the Catholic minority, who naturally were dissatisfied, appealed to the judges of the Judicial Committee of the Privy Council for their opinions. The court in Canada and the court in England gave opposite answers to the questions Those opinions have no binding effect on the Parliament of Canada, and its members did not consider that they were offering any discourtesy to that court by declining to adopt the opinions and suggestions expressed by the Lord Chancellor in giving judgment on the questions submitted. Moreover there is no power under the constitution that could compel the Parliament of Canada to pass a measure it did not approve of. Six judges of the Judicial Committee of the Queen's Privy Council had in 1892 decided that the Manitoba Act of 1890 was *intra vires*, and the second judgment of that court did not controvert that decision and consequently that Act (1890) cannot now be called in question.

In view of these incontrovertible facts there was no other course open to the present Administration than to negotiate with Manitoba, and secure for the Catholics the best terms possible. The present Cabinet assumed office in July last, and, soon after, they invited the members of the Government of

Manitoba to a conference which, after many proposals and counter proposals, resulted in the terms now agreed upon.

The Cabinet were naturally desirous of securing larger concessions than those now obtained; but under existing conditions that was found to be impossible. They have good reason to hope, however, that the Manitoba Government in administering the law will give a liberal interpretation to its provisions and endeavour to make it acceptable to such Catholic schools as may adopt it.

In those school districts which are exclusively Catholic (and there are many such districts in Manitoba) there would not seem to be any good reason whatever for refusing to come under the Public School law, as, with Catholic trustees and a Catholic teacher and the parish priest an authorized visitor, those schools for all practical purposes would be essentially Catholic schools. They would be subject only to an occasional visit from an inspector, whose chief object would be to see that the average attendance was up to the Government standard to entitle the school to the annual subsidy, that the teacher employed held a qualifying certificate, and that the school generally was properly managed.

It would be for the Catholic ratepayers of the district to fix the taxes for the support of their own school.

Under these circumstances, and as nothing better can be secured at present, would it not seem more prudent to, at least, give the proposed changes in the school law a fair trial, and if, after the experience of a few years, the administration of the schools be not satisfactory, the Catholics are free to revert to the present system of voluntary schools?

The Catholic members of the present Government fully appreciate the feelings that influence some of the prelates of their church in the strong protest they make against the bad faith meted out to the Catholics of Manitoba; but the censure should attach where it properly belongs. When the Conservative Administration failed to exercise its power of disallowance as requested by the Cardinal, the Archbishops and Bishops of Canada, the opportunity to protect the minority was gone for ever, and the history of that question for the last six years proves that statement. Those prelates who now condemn the Liberal Government for the recent settlement fail to recognize the conditions under which the present Cabinet had to consider the subject. *Admitting a wrong had been done, the question of how to obtain a remedy is not a theological but a practical one, the solution largely depends on the obstacles to be overcome. The Manitoba Act is an ordinary statute depending for its interpretation on the judgment of the courts. There is no constitutional remedy outside of that statute; and the remedial clauses in the Act are not obligatory on the Parliament of Canada. The question of a remedy, therefore, involves the consideration of matters of law and of fact.* Remedial legislation by the Federal Parliament is a novel feature in our constitution—it has never been exercised and with the present development of the doctrine of provincial rights such legislation would not give the desired relief. It could not be enforced in a community where the Catholic population is only one-seventh of the whole, and would give rise to sectarian strife in the other provinces of the Dominion, which sympathize with Manitoba, and thus cause irreparable harm.

Remedial Legislation is impossible. It could not be carried by either of the political parties, and even if passed would certainly be resisted by Manitoba, and would arouse the sympathies of the strong Protestant element of the Dominion in support of Provincial rights. The enforcement of the law

would be contested in the courts, and for a long series of years this burning question would continue to agitate the public mind, seriously disturbing the peace and harmony of the whole of Canada, and injuriously affecting the Catholic minority in the other provinces; moreover, in view of the many conflicting judgments which have been given during the long litigation of this question, there is no certainty that in the end the legislation would be finally upheld.

The members of a Government who are in touch with public opinion over this broad Dominion and who are familiar with the views of the representatives elected by the people are certainly in the best position to form a sound judgment on the wisest and most prudent course to take in the interests of those who, from circumstances now beyond control, have suffered a grievous wrong.

Actuated by the best motives and believing that the policy they have adopted was the only course available, the members of the Government must patiently wait until the present excitement on this question shall have abated, convinced that the calmer judgment of the future will justify the wisdom of the settlement they have now made.

APPENDIX A.

EXTRACT FROM THE DEBATE IN THE PARLIAMENT OF CANADA ON THE ACT ESTABLISHING THE GOVERNMENT OF THE PROVINCE OF MANITOBA.

House of Commons Hansard, May 10th, 1870.

MR. OLIVER moved that the Education clause be struck out.

Hon. Mr. CHAUVEAU hoped the amendment would not be carried. It was desirable to protect the minority in Manitoba from the great evil of religious dissensions on education. There could be no better model to follow in that case than the Union Act, which gave full protection to minorities. It was impossible to say who would form a majority there, Protestants or Catholics. If the population were to come from over the seas, then the Protestants would be in a majority. If, as had been asserted, Manitoba was to be a French preserve, then the Catholics would be a majority. He did not care which, because he desired only to see the new province freed from discussions, which had done so much injury in the old provinces of Canada. They presented a problem to the whole world, and the question was, could two Christian bodies, almost equally balanced, be held together under the British constitution. He believed that problem could be worked out successfully.

Hon. Mr. McDOUGALL, M.C., said the effect of the clause, if not struck out, would be to fix laws which the Local Legislature could not alter in future, and that it would be better to leave the matter to local authorities to decide, as in the other provinces. He quite agreed with his hon. friend in giving the same powers to this province as the others, and it was for that reason that he desired to strike out the clause.

Hon. Sir GEORGE E. CARTIER referred to the manner in which the Red River country had been settled, and grants of land which had been made to the clergy for the purposes of education.

MR. MACKENZIE was prepared to leave the matter to be settled exclusively by the Local Legislature. The British North America Act gave all the protection necessary for minorities; and local authorities understood their own local wants better than the General Legislature. It was his earnest desire to avoid introducing into the new province, those detrimental discussions which had operated so unhappily on their own country, and therefore hoped the amendment would be carried.

After a long discussion a division was taken on the amendment—Yeas 34, Nays, 81.

Yeas:—Messrs. Ault, Bodwell, Bolton, Bowell, Bowman, Brown, Connell, Dobbie, Drew, Ferguson, Jones (Leeds and Grenville), Kirkpatrick, Macdonald (Glengarry), Mackenzie, McConkey, McDougall (Lanark), Metcalfe, Mills, Morrison (Victoria, O.), Oliver, Redford, Ross (Dundas), Ross (Prince Edward), Ross (Victoria, N.S.), Ross, (Wellington C. R.), Rymal, Snider, Stirton, Thompson (Ontario), Wallace, Wells, White, Wright (York, Ontario, W.R.), and Young.—34.

Nays:—Messrs. Archambeault, Archibald, Beaubien, Béchard, Bellerose, Benoit, Blanchet, Bourassa, Bown, Brousseau, Burtin, Cameron (Peel), Campbell, Carling, Caron, Cartier (Sir George E.), Casault, Cayley, Chauveau, Cheval, Cimon, Costigan, Coupal, Crawford (Brockville), Daoust, Dorion, Dufresne, Duncan, Fortier, Fortin, Gaucher, Gaudet, Geoffrion, Gendron, Gibbs, Godin, Grant, Gray, Grover, Heath, Hincks (Sir Francis), Holmes Holton, Huot, Hurdon, Keeler, Lacerte, Langevin, Langlois, Lawson, LeVesconte, McDonald (Lunenburg), McDonald (Middlesex), Masson (Soulanges), Masson (Terrebonne), McDougall (Three Rivers), McGreevy, McKeagney, Merritt, Morris, Morison (Niagara), O'Connor, Peltier, Perry, Pinsonneault, Pope, Pouliot, Pozer, Ray, Renaud, Robitaille, Ryan (King's, N.B.), Savary, Scatcherd, Scriver, Shanly, Stephen son, Tilley, Tremblay, Walsh and Wilson.—81.

APPENDIX B.

PETITION OF THE BISHOPS FOR DISALLOWANCE.

To His Excellency the Governor General in Council.

The petition of the Cardinal Archbishop of Quebec, and of the Archbishops and Bishops of the Roman Catholic Church in the Dominion of Canada, subjects of Her Gracious Majesty the Queen,—Humbly sheweth:—

That the seventh Legislature of the Province of Manitoba, in its third session assembled, has passed an Act intituled, "An Act respecting the Department of Education," and another Act to be cited "The Public School Act," which deprive the Roman Catholic minority of the province of the rights and privileges they enjoyed with regard to education.

That during the same session of the same parliament there was passed another Act, being fifty-three Victoria, chap. XIV., to the effect of abolishing the official use of the French language in the parliament and courts of justice of the said province;

That the said laws are contrary to the dearest interests of a large portion of the loyal subjects of Her Majesty;

That the said laws cannot fail to grieve, and in fact do afflict, at least the half of the devoted subjects of Her Majesty;

That the said laws are contrary to the assurances given, in the name of Her Majesty, to the population of Manitoba, during the negotiations which determined the entry of the said Province into Confederation;

That the said laws are a flagrant violation of the British North America Act, 1867, of the Manitoba Act, 1870, and of the British North America Act, 1871; that your petitioners are justly alarmed at the disadvantages and even the dangers, which would be the result of a legislation forcing on its victims the conviction that public good faith is violated with them, and that advantage is taken of their numerical weakness, to strike at the constitution under which they are so happy to live.

Therefore your petitioners humbly pray Your Excellency in Council to afford a remedy to the pernicious legislation above mentioned, and that in the most efficacious and just way.

And your petitioners will, as in duty bound, ever pray.

MONTREAL, 6th March, 1891.

†E. A. Cardinal TASCHEREAU, Archb. of Quebec.
†C. O'BRIEN, Archb. of Halifax.
†EDOUARD CHAS., Archb. of Montreal.
†JOHN WALSH, Archb. of Toronto.
†JEAN, Archb. of Leontopolis.
†VITAL J., Bishop of St. Albert.
†PETER MCINTYRE, Bishop of Charlottetown.
†L. F., Bishop of Three Rivers.
†J. CAMERON, Bishop of Antigonish.
†PAUL DURIEU, O.M.I., Bishop of New Westminster.
†THOMAS JOSEPH, Bishop of Hamilton.
†J. N. LEMMENS, Bishop of Vancouver.
†ANDRÉ ALBERT, Bishop of St. Germain de Rimouski.
†J. C. MCDONALD, Tit. Bishop of Irina.
†ALEX, Archbishop of St. Boniface.
†J. THOMAS, Archbishop of Ottawa.
†J. FARRELLY, Administrator, Diocese of Kingston.
†JOHN SWEENEY, Bishop of St. John.
†ISIDORE CLUT, O.M.I., Bishop of Arindele.
†T. O'MAHONY, Bishop of Eudocie.
†ANTOINE, Bishop of Sherbrooke.
†L. Z., Bishop of St. Hyacinthe.
†N. ZÉPHIRIN, Bishop of Cythère, Vic. Apost. of Pontiac.
†ELPHÈGE, Bishop of Nicolet.
†RICHARD A. O'CONNOR, Bishop of Peterborough.
†ALEXANDER MACDONELL, Bishop of Alexandria.
†DENIS O'CONNOR, Bishop of London.
†N. DOUCET, Priest, V. G., Prot. Apost., Administrator, of the Diocese of Chicoutimi, during the absence of Mgr. in Europe.

APPENDIX C.

PROPOSALS FOR THE SETTLEMENT OF THE MANITOBA SCHOOL QUESTION MADE BY THE CONSERVATIVE GOVERNMENT.

MESSAGE (39c.)

ABERDEEN,

The Governor General transmits to the Senate the Report of the Commissioners appointed to confer with the Government of the Province of Manitoba on the subject of the schools in that Province.

GOVERNMENT HOUSE,

OTTAWA, 6th April, 1896.

WINNIPEG, 2nd April, 1896.

To His Excellency the Governor General in Council:

We, your commissioners appointed to confer with the Government of Manitoba on the subject of the schools in that province, beg respectfully to report as follows:—

We proceeded to Winnipeg, arriving there at eight o'clock on the evening of 25th March. On the next day Hon. Mr. Cameron called and informed us that he and Hon. Clifford Sifton, Attorney General, had been appointed by the Manitoba Government to meet us for the purpose of discussing the school question, and a meeting was arranged for the following day. Thereafter several meetings took place at which the proceedings took the form of informal and confidential conversation of a most frank and friendly character. Attached hereto, marked "A," "B," "C" and "D" respectively are the various written communications which passed between us and the gentlemen representing the Manitoba Government and which explain themselves. We respectfully submit them for your information and consideration.

(Signed) DONALD A. SMITH,
ALPH. DESJARDINS,
A. R. DICKEY.

(Confidential.)

SUGGESTIONS FOR SETTLEMENT OF THE MANITOBA SCHOOL QUESTION BY THE DOMINION COMMISSIONERS TO THE MANITOBA GOVERNMENT.

Legislation shall be passed at the present session of the Manitoba Legislature to provide that in *towns and villages* where there are resident, *say, twenty-five Roman Catholic children of school age*, and in *cities* where there are, say, *fifty of such children*, the board of trustees shall arrange that such children shall have a school house or school room for their own use, where they may be taught by a Roman Catholic teacher; and Roman Catholic parents, or guardians, say, ten in number, may appeal to the Department of Education from any decision or neglect of the board in respect of its duty under this clause, and the board shall observe and carry out all decisions and directions of the department on any such appeal.

Provision shall be made by this legislation that schools wherein the majority of children are Catholics should be exempted from the requirements of the regulations as to religious exercises.

That text-books be permitted in Catholic schools such as will not offend the religious views of the minority, and which from an educational standpoint shall be satisfactory to the advisory board.

Catholics to have representation on the advisory board.

Catholics to have representation on the board of examiners appointed to examine teachers for certificates.

It is also claimed that Catholics should have assistance in the maintenance of a normal school for the education of their teachers.

The existing system of permits to non-qualified teachers in Catholic schools to be continued for, say, two years, to enable them to qualify, and then to be entirely discontinued.

In all other respects the schools at which Catholics attend to be public schools and subject to every provision of the Education Acts for the time being in force in Manitoba.

A written agreement having been arrived at, and the necessary legislation passed, the Remedial Bill now before Parliament is to be withdrawn, and any rights and privileges which may be claimed by the minority in view of the decisions of the Judicial Committee of the Privy Council shall, during the due observance of such agreement, remain in abeyance and be not further insisted upon.

28th March, 1896.

Reply of the Manitoba Government.

GOVERNMENT BUILDINGS,
WINNIPEG, 30th March, 1896.

To the Honourable ARTHUR R. DICKEY,
Honourable ALPHONSE DESJARDINS,
Sir DONALD A. SMITH, K.C.M.G.

GENTLEMEN,—We have had under consideration the memorandum handed to us on the 28th instant containing your suggestions for settlement of the Manitoba school question, and have the honour to submit herewith our reply thereto.

We desire first to refer to the understanding upon which the conference was proceeded with. You will remember that we thought it necessary before proceeding with the discussion of the question involved, to stipulate;

1st. That while the conference was proceeding, the Remedial Bill now before Parliament should be held in abeyance, and no proceedings taken thereon in the meantime, provided that the conference did not extend beyond Tuesday next.

2nd. That in the event of an agreement being reached for settlement, the Remedial Bill should be at once withdrawn, and the execution of the terms of the agreement left to the parties.

These stipulations were agreed to by yourselves without hesitation, but notwithstanding such agreement and in violation of its terms, the Remedial Bill was advanced a stage in the House of Commons on Saturday morning. While not desirous of taking any advantage of this departure from the conditions upon which the negotiations were opened, we deem it due to ourselves to protest against the course thus pursued by the government by which you were commissioned.

We regret that we are unable to accede to the terms of the proposition submitted to us. A study of its details reveals the fact that it involves much more than would appear at first sight. The objections are both general, that is to say, as to principles involved, and special, that is to say, as to practical operation.

An amendment to the School Act embodying the terms of the memorandum would divide the population, for educational purpose, into two classes, Roman Catholic and Protestant, giving to the Roman Catholic population distinct and

special privileges as against the remaining portion of the people. It would establish a system of state-supported separate schools for the Roman Catholic people, and would compel their support by the school taxes and legislative grants. Not only so, but the whole school organization—text-book regulations, constitution of advisory board, boards of examiners and normal school—would be modified to bring it into accord with the separation principle, to an extent not usual even in places where regularly constituted separate school systems obtain.

In the Order in Council of the 20th December, 1895, transmitted to the Federal Government as embodying the views of the Manitoba Government upon the question, it is stated that the proposal to establish a system of state aided separate schools in any form cannot be agreed to. That Order in Council was taken as the basis of the policy of the government upon the question in the late general provincial election, and upon it the government was sustained. It is clear, therefore, that we are precluded from accepting the proposition which has been made. Such acceptance, would, in our opinion, be a direct breach of faith with the people of our province.

Apart from the fundamental objection above stated, we think it due to you to state somewhat in detail a few of the practical objections to your proposals.

As to the first clause:—

1. Separate schools under this clause would result in a teacher having under his charge a comparatively small number of pupils of various ages and degrees of proficiency. The school could not therefore be properly graded and could not attain the degree of efficiency reached by public schools in cities, towns and villages. Grading of classes and mutual competition would be destroyed. The separate school would, therefore, of necessity, be inferior. Experience elsewhere will prove the truth of this contention.

2. The organization of the separate school would be compulsory. Neither the Roman Catholic parents nor the school trustees would have any option. The voluntary idea upon which, almost universally, school organization depends, and which rules even in Ontario, where there is a fully developed separate school system, is entirely eliminated. Given the requisite number of Roman Catholic children of school age, and the law would compel the separation without regard to the wishes of the parents or the trustees, and equally without regard to the ability of the district to maintain another school. It is most probable also that in such a case it would be held that the Roman Catholic children had no legal right to attend the public school. Thus we would by law compel Roman Catholics to separate themselves and deprive them of the right to send their children to the public schools. There seems to be no precedent even in separate school legislation for such a provision.

3. In many cases it would be impossible to provide a separate building, and the Roman Catholic children would therefore be assigned a room in the public school. It seems beyond dispute that nothing could be worse than the separation of children into two distinct bodies within daily view of each other.

4. The financial objections would be serious. A voluntary separate school system such as exists in Ontario, or such as we had in Manitoba prior to 1890, would only be put into operation where the Roman Catholic rates added to the legislative grant would be sufficient to maintain the school, but under the plan proposed this idea is not recognized; if the number of Roman Catholic children are to be found, a school must be provided and maintained. By whom? By the public school trustees. The rates paid by the Roman Catholic taxpayers might be only one-tenth of the cost of the school, yet the rest of the district must maintain it. As a matter of fact, in a great majority of cases, in cities, towns and villages in Manitoba, the contributions of the Roman Catholic ratepayer would only be a fraction of the cost of maintaining the school. As a result the bulk of the expense would require to be met out of the taxes paid by non-Catholic ratepayers, and the school would therefore be an additional and unnecessary charge upon the school revenues already in every case heavily burdened. It would be hard to conceive of a more indefensible and offensive method of compelling one portion of the people to pay for the education and sectarian religious training of the remainder, and to maintain a separate denominational school to the principle of which they were opposed.

It is quite clear that such a plan would prove unworkable. The non-Catholic people would continually struggle against supporting what they would consider to be an unjust burden. The trustees elected would probably be in accord with the views of the majority and might prove hostile and refractory in carrying out the details of the scheme. Altogether it is clear that a most unhappy state of affairs would result. We believe there is no justification for substituting such an arrangement for that which now exists. At present in every city, town and village in the province, outside of Winnipeg and St. Boniface, the Roman Catholic children attend the public schools. Not a word of complaint is heard. Absolute contentment and satisfaction prevails. The children have the advantage of efficient instruction, and numbers of them are qualifying themselves to become teachers in the public school. We do not hesitate to say that not only is there no desire to separate, but if left to themselves, the Roman Catholic people in the cities, towns and villages outside of Winnipeg and St. Boniface would not consent to a change in the direction indicated.

5. It would be idle to say that such a plan would not impair the efficiency of the public schools. Such efficiency depends in the main upon the sufficiency of the school revenues. Given a sufficient revenue, and the people under the stimulating action of the department may be depended upon to have a good school. The school taxes are now a heavy burden and one of the ever present questions in municipal finances is to decide how much the people can afford to pay for their schools. Subtract a substantial sum, such as would be necessary to maintain the separate schools, and nothing can be more certain than that a general lowering of the standard of efficiency of the public schools would result.

As to clause two:—

1. The effects of this clause would be to absolutely divest the legislature and government of control of the schools so far as religious exercises and teaching are concerned. Where a majority of the pupils are Roman Catholics, doctrinal religious teaching without any restriction or control might go on at any hour, or all hours. The schools might be in effect, so far as religious teaching is concerned, church schools. It might be said that if religious teaching were carried on to the detriment of secular education the department might withhold the grant. Even if this were done, the school trustees would be compelled to carry on the school, and the penalty would be suffered by the ratepayers. Apart from that, however, the remedy is apparent rather than real. In actual administration we know from experience that it is most difficult to decide on the withholding of a grant on account of inefficiency. Repeated and troublesome inquiries have to be made, conflicting opinions have to be weighed, and in the end it is doubtful what course should be followed. Moreover, the withholding of a grant from a separate Catholic school, established in pursuance of a treaty of settlement, would almost inevitably be charged to be a violation of the spirit of the treaty.

Another feature of this clause is the effect on non-Catholic children. What would become of them while the religious education of the majority was proceeding? Under our present conscience clause there is no possibility of trouble to any class. In the memorandum there is no safeguard. We know by experience that in schools where there was a Protestant minority, under the old system, most bitter complaints were made of the inability of the non-Catholic children to properly progress with their studies owing to the time of the school being taken up with religious instruction. The same result would inevitably follow in an aggravated degree if we were unable to control the holding of religious exercises in every case where the Roman Catholic children were in the majority. It is our belief that in such a case the schools would be of little benefit to the non-Catholic minority.

In view of the above remarks it will be unnecessary to deal at length with the other proposals contained in the memorandum, and our remarks thereon will therefore be confined to a brief space.

As to the text-books:—

It will be impracticable to provide by statute that the text-books should be satisfactory to the Roman Catholic minority, but we have no doubt that if other points could be agreed upon an arrangement could be arrived at on the text-book

question which would be mutually satisfactory. We regard this part of the difficulty as comparatively easy of adjustment.

We would have no objection to the Catholic people being represented upon the advisory board and the board of examiners. In point of fact His Grace the late Archbishop was offered a seat on the advisory board. But we see no practical way of embodying such a provision in the statutes. The effect of such a statutory provision would be that the boards would not be legally constituted without Catholic members, and the legal constitution of the board might be disturbed by the resignation of the Catholic members or the refusal of Catholic nominees to accept office. It would also be impossible to give a statutory privilege of representation to one religious denomination without according the same privilege to others.

The proposal to adequately assist a separate normal school we could not consider. It would be absolutely unjustifiable. The normal school is a technical training school for teachers. We endeavour to raise it to the highest possible standard by devoting to it as much of the school funds as can be spared. There can be no argument advanced in favour of dividing the funds, or of separating Roman Catholic teachers in process of training from the others. The Roman Catholic teachers would not be prevented from acquiring religious instruction elsewhere, but it is clear that their own educational interests and that of the schools to be placed under their charge would be best served by their attendance at the provincial normal school.

As to the question of permits:—

The proposition in the memorandum might be agreed to by the government, to be carried out as a matter of administration.

The last clause of the memorandum referring to the terms upon which the Remedial Bill would be withdrawn is not, it is submitted, in accordance with the understanding arrived at upon the opening of the conference. The understanding was that in the event of a settlement being made, the Remedial Bill should be immediately withdrawn. The passing of the necessary legislation, and the carrying out of the terms of the settlement was to be left to the parties. The clause of the memorandum referred to is therefore a departure, in that it requires, as a condition of the withdrawal of the Remedial Bill, that legislation to carry out the terms of the settlement, if made, should be enacted before the withdrawal of the bill. Apart from the understanding which was had, it would be impossible to accede to the terms of the last clause. The legislature cannot meet until the 16th of April, and under the ordinary procedure the government could not undertake to have a bill passed before the 25th of April, the day upon which the Dominion Parliament expires by effluxion of time.

It will be seen from the above remarks that the plan proposed involves the establishment of a state aided denominational system of separate schools, which in practical effect would carry with it the evils of the system which prevailed prior to 1890, and would also involve grave additional evils and difficulties of which we have not hitherto had experience.

The objections may be summarized as being:

1st. The statutory division of the people into separate denominational classes.

2nd. The necessary inferiority of the separate school.

3rd. Impairment of the efficiency of the public schools through division of school revenues.

4th. The burdening of non-Catholic ratepayers by compelling them to maintain separate schools.

5th. The according of special privileges to one denomination which could not on principle be denied to all the others, but which in practice could not be granted to such others without entire destruction of the school system.

It will not, therefore, be a matter of surprise to you that we are unable to accede to the proposition made, or any proposition based upon similar principles.

We are prepared, however, to make good the promise to remedy any well-founded grievance if such exists, and we, therefore, submit a plan of suggested modifications, which we believe to be free from objections upon principle, and which in

our opinion will remove any such grievance, and at the same time in no way affect the efficiency of the public school system, or deprive the Roman Catholic children of the privilege of participation in the same educational advantages enjoyed by the rest of the people.

Our proposition is in the form of an alternative:

First: Should it be accepted as a satisfactory measure of relief to the minority and as removing their grievances, we hereby offer to completely secularize the public school system, eliminating religious exercises and teaching of every kind during school hours. We desire it to be understood in connection with this proposition that it is made as a compromise offer, and not as embodying the policy which the government and legislature of the province are themselves desirous of pursuing. We are willing, however, to adopt such a measure in order to attain a settlement of the dispute.

Second: In the alternative we offer to repeal the present provisions of the School Act relating to religious exercises, and to enact in substance the following:—

"No religious exercises or teaching to take place in any public school, except as provided in the Act. Such exercises or teaching, when held, to be between half past three and four o'clock in the afternoon."

"If authorized by resolution of the trustees, such resolution to be assented to by a majority, religious exercises and teaching to be held in any public school between 3.30 and 4 o'clock in the afternoon. Such religious exercise and teaching to be conducted by any Christian clergyman whose charge includes any portion of the school district, or by any person satisfactory to a majority of the trustees who may be authorized by said clergyman to act in his stead; the trustees to allot the period fixed for religious exercises or teaching for the different days of the week to the representatives of the different religious denominations to which the pupils may belong in such a way as to proportion the time allotted as nearly as possible to the number of pupils in the school of the respective denominations. Two or more denominations to have the privilege of uniting for the purpose of such religious exercises. If no duly authorized representative of any of the denominations attend, the regular school work to be carried on until four o'clock."

"No pupil to be permitted to be present at such religious exercises or teaching if the parents shall object. In such case the pupil to be dismissed at 3.30."

"Where the school room accommodation at the disposal of the trustees permits, instead of allotting different days of the week to different denominations, the trustees to direct that the pupils shall be separated and placed in different rooms for the purpose of religious exercises as may be convenient."

We believe that the foregoing proposals will remove any well-founded grievance.

If the objection of the minority be that the schools are Protestant, as alleged in some of their petitions, then the objection can be fully and finally disposed of by complete secularization.

If the real objection be the desire to have along with efficiency, secular education, proper religious training, then the second plan proposed offers an effective method of attaining the object desired. In fact it is difficult to conceive what better plan could be proposed even were we dealing with a system of schools entirely Catholic. It would be, in any event, necessary to have some general provision as to the time allotted for religious exercises and teaching. The individual school could not be permitted to act without restraint. The time suggested seems to be a reasonable and sufficient proportion of the school hours, and the hour in the day is undoubtedly the most convenient for the operation of the conscience clause.

At the same time no distinction of any kind between denominations would be made. Absolutely equal rights would prevail. Non-Catholics desiring a greater amount of religious instruction than is given at present, might carry out their views. While this desirable end would be accomplished, the uniformity and efficiency of the schools to which the children of all denominations would go, would remain absolutely unimpaired and unaffected.

CLIFFORD SIFTON,
J. D. CAMERON.

Rejoinder of the Commissioners for the Dominion.

MANITOBA HOTEL, WINNIPEG, 31st March, 1896.

Honourable CLIFFORD SIFTON,
" J. D. CAMERON.

GENTLEMEN,—We beg leave to acknowledge your communication dated yesterday, and written in reply to our suggestions for settlement of the Manitoba school question.

We regret to find that there has been some misapprehension as to any understanding upon which the conference was proceeded with. As to the first of those matters mentioned by you; we understand the facts to be that you insisted that no further consideration of the Remedial Bill should be pressed for by the Dominion Government until to-day (Tuesday) and that we directed your attention to the announcement to that effect in the newspapers of the day, and having every desire to meet your wishes we further promised to communicate with the Dominion Government asking that the bill be not taken up on Friday. This communication we sent, and we were as much surprised as yourselves to find that late on the night of the Friday sitting the bill was advanced a stage. We cannot say what consideration forced the government to the conclusion that this step was necessary, and we sincerely regret that any misunderstanding has arisen as to a point upon which we carried out what we believed to be our engagement, and upon which we did all we could to have your wishes observed.

As to the second matter which you mention, there seems to have been a clear and perhaps not unnatural misunderstanding between us. We understood you to stipulate that when the school question was settled the Remedial Bill would be withdrawn, and we did not mean to lead you to believe that this was to take place as soon as an agreement was arrived at between us, and the concluding paragraph of our suggestions therefore expressed our understanding of what was originally agreed upon. We refer to these questions, which are in themselves unimportant, in order to remove from the controversy all matters of a personal character.

A few words are necessary as to the character of our memorandum. It was put in general terms as a suggested basis upon which our future discussions might proceed with a view to a possible agreement of all parties interested. It is therefore open to some of the objections raised by you, inasmuch as it does not deal with details, and professes only to lay down broad lines upon which legislation might be drawn.

In addition to this, we must premise that sufficient weight is not given by you to the undoubted legal position of the Roman Catholics. *Under the judgment of the Judicial Committee of the Privy Council and the Remedial Order they certainly have important rights in connection with separate schools, and while the Dominion Parliament may have jurisdiction to enforce some or all of those rights, it is universally acknowledge that this could be done with more advantage to all parties by the local legislature, and for this reason we are holding this conference.* A discussion of the disadvantages of separate schools is therefore in our view not relevant to the present situation, and is likely to raise misleading issues. In our view much of your argument misses its mark because you have not recognized the present position of affairs and dealt with our suggestion as compared with a regular system of separate schools such as might be established under the Remedial Bill, or under the old system, but have rather confined your attention to maintaining that our position would involve some of the drawbacks of these other schools.

We deeply regret that you have felt obliged to reject our proposition, and with all deference it does not appear to us that the objections, general and special, which you urge are such as to necessarily involve so serious a step. It would serve no useful purpose for us to support our view with any detailed argument, but some general considerations may be advanced as to the three objections upon principle which you mention; viz.: (1.) That our plan would divide the population into two classes, Roman Catholics and Protestants, giving the former class privileges as against the latter; (2.) That it would establish a system of state supported separate schools;

and (3.) That the whole school organization would be modified to an unusual extent to bring it into accord with the separate school principle. As to the first of these objections we may observe that the separation of the Roman Catholics as a class does not arise from our suggestions. It is made by the constitution and arises as to them because they happen to be a minority of the population. It is inaccurate to say that any privilege is given to them as against the rest of the population. It is only the rights conferred on the minority by the constitution that are in question. The problem presented in the school question is to secure to them their just and lawful privileges under the constitution in such a manner as to cause the minimum of interference with the public school system of Manitoba, and in that view we think our suggestion has merits.

As to your second objection we may observe that the Roman Catholic population contribute their share of all taxation for schools, and in return are entitled to obtain education for their children. It is now a question of the mode of that education in view of the rights held by the minority under the constitution. The contention that the system we propose would be unduly expensive and the limitations on ordinary separate school privileges embodied in our proposition will be considered later on. In so far as there is any principle violated by the application of taxes to the support of schools in which Roman Catholic doctrines are taught, your alternative suggestion would seem to be quite as objectionable as ours.

In reply to your third objection, we beg to urge upon you that the changes we suggest are much less than what we understand to be involved ordinarily by the establishment of separate schools. *We do not insist upon normals chools* As to text-books, and representation on the boards, as a matter of practice and administration we find that you raise in point of fact no objection. *We do not ask that the Roman Catholics have a separate right to elect trustees or otherwise to have any special representation on the board of trustees, being content with the protection afforded by an appeal to your own Department of Education, and in this respect our proposals very materially limit what is always considered the privileges essential in connection with a separate school system. The proposed schools would be controlled by trusstees elected by the whole body of ratepayers under the provisions of your school law.* There does not seem to be any adequate foundation for your remark that the carrying into effect of our suggestion would involve a modification of school organization greater than usual in cases of separate schools. We desire to minimise such modification, and think that to some extent we succeeded.

As to your first objection in detail, we submit that under existing conditions there would not arise any great pratical inconvenience, as in most of the localities affected the Roman Catholics are sufficiently numerous to afford all necessary facilities for grading and competition. In any event it must be quite clear that the standard of efficiency maintained would naturally be higher than can be reached by Roman Catholics who refuse on conscientious grounds to attend the public schools, and are therefore obliged to maintain schools from their own private means, and without the aid of the legislative grant. *Considering the question of efficiency alone we think it cannot be denied that the state of affairs under the system we suggest would be very much better for the community than that which would obtain under existing conditions or under the Remedial Bill if it became law* And if this be so, even the argument from efficiency is all upon the side of bringing the Roman Catholics amicably within the public school system by some method as we suggest.

Your second objection in detail seems founded on a misapprehension. Our memorandum was drawn in general terms, and did not in any sense intend to exclude the principle of election on the part of the Roman Catholics, a principle which is elementary, and which is embodied in the Remedial Bill.

As to your third objection, we cannot agree that there would be any special disadvantage in having Roman Catholic children in a separate room as distinguished from teaching them in a separate building. It would seem to be quite as objectionable on principle to separate them for religious exercises, as one of your own suggestions would involve.

We cannot altogether follow your reasoning with respect to the financial objections. As before stated, the Roman Catholics must pay their share of the taxation, be it great or small, and in return they have a right to educational privileges. The school laws are full of financial anomalies, as occurs for example in the case of a wealthy man without children as compared with a poor man who has a large family. You observe that in Ontario and in Manitoba, prior to 1890, a separate school could not be established unless the rates with the legislative grant could maintain it, and suggest that our proposition is faulty in that this is not recognized. Your argument on this head loses weight when it is considered that we propose that there should be in towns and villages twenty-five, and in cities fifty, Roman Catholic children before they could ask for a separate room or building, while under the old law, before 1890, under the Remedial Bill, and even under your own existing law, the presence of ten children only is necessary to the establishment of a school district. *We must again direct your attention to the evident advantages in point of economy of the system we propose over the old system, over schools under the Remedial Bill,* and particularly over the existing state of affairs where an important section of the public has to pay school taxes, and in addition feels compelled from conscientious motives to educate their children at their own expense. There would be no expenses of organization either general or local. The utmost that can be said is that it would cost the whole community the increase in expense, if any, which would necessarily be involved in the Roman Catholic children being educated together in one room or in one building, as compared with educating them scattered amongst the rest of the school children. It is only in small mixed communities that this could be a serious item. We note your objection that this would be an offensive method of compelling one portion of the people to pay for the education and sectarian religious training of the remainder, and must again remind you that in principle your own alternative suggestion is equally objectionable, because conceivably the Roman Catholics under your system might pay a comparatively insignificant share of taxation, and yet you propose that their religion shall be taught them in the schools. We must further draw your attention to the flagrant injustice of the present system, which compels Roman Catholics to contribute to schools to which they cannot conscientiously send their children, and we beg to submit that this fact deserves due weight and consideration in this connection. It is to be further noted that the Roman Catholics earnestly desire a complete system of separate schools on which only their own money would be expended, a state of matters which would meet the observation under consideration, but which you decline to grant. Our suggestion was to relieve you from the necessity of going as far as this. It is perhaps impossible to devise a system that would be entirely unobjectionable theoretically and in the abstract. We had great hope that what we suggested would commend itself to your judgment as a practicable scheme doing reasonably substantial justice to all classes, and securing that harmony and tranquillity which are perhaps more than anything else to be desired in a young and growing community such as is now engaged in the task of developing the resources of Manitoba.

The ground taken in your fifth objection has been touched on in the preceding remarks. As to clause two of our memorandum your objections could be met by provisions as to detail. *If desired the privilege of teaching religion could be limited to a certain time in the schools attended by Roman Catholics.* The point that provision should be made for non-Catholic children is certainly well taken and is quite in accordance with our views, which were in this respect imperfectly expressed in the memorandum. Neither of the propositions which you make would, as it appears to us, remove the sense of unjust treatment existing amongst the minority, nor would they possess the elements of permanency and freedom from friction in administration which are certainly necessary for a final and peaceable solution of existing difficulties.

We once more appeal to you in the interests of the whole population of the province, indeed of the Dominion, as well as in the interests of the minority, to reconsider the decision at which you have arrived and to make some proposal that we could regard as affording a chance of the settlement which we so earnestly desire.

Reply of the Manitoba Government to Rejoinder.

GOVERNMENT BUILDINGS, WINNIPEG, 1st April, 1896.

To the Honourable ARTHUR R. DICKEY,
Honourable ALPHONSE DESJARDINS,
Sir DONALD A. SMITH, K.C.M.G.

GENTLEMEN,—We have the honour to submit herewith our views upon your memorandum of yesterday. As remarked by yourselves in your memorandum, a lengthened reference to the objections raised to your first suggestions will not serve any valuable purpose at the present stage of the discussion. Our purpose in stating the objections was to give you our view as to the results which would follow from the plan proposed, or any similar plan.

The point of difficulty in arriving at a basis of settlement seems to be very clearly defined. You maintain that, in the words of your memorandum, the Roman Catholics "certainly have important legal rights in connection with separate schools," and that your idea of the object of the conference is to give effect to those rights in the most unobjectionable way, through the action of the legislature of the province.

We hold on the contrary that the constitution gives the Roman Catholics no legal rights in reference to separate schools, exeept the right of appeal under which the federal authority may, or may not, restore any rights formerly enjoyed under provincial legislation.

Your proposition aims at the legal recognition by the legislature of Manitoba of the right of the Roman Catholic people to separate for school purposes. Our proposition aims at removing every practical objection to the present system without giving a legal right to separate. We understand that, by Order in Council, your authority is limited to making a settlement satisfactory to the minority, and that as a matter of fact the minority will accept nothing short of statutory recognition of the right of separation. We regard ourselves as precluded by our declaration of policy preceding our last election from assenting to such statutory recognition. While joining with you in the earnest desire to reach a settlement, we are unable to suggest any way of reconciling these two propositions.

We are of the opinion that there would be no objection on principle to the plan we propose, and that its practical operation would prove to be very satisfactory. It would give substantial relief on every material matter without legal separation. If the minority insists on legal separation there does not seem to be any possibility of reaching a basis of compromise.

We cannot but express our regret and disappointment at the failure of our negotiations. We assumed when a conference was asked for by the Federal Government, with full knowledge of the fact that we were clearly estopped by the terms of the Order in Council of 20th December, 1895, from assenting to the re-establishment of separate schools in any form, that it was with the object of securing substantial modifications, which while falling short of the principle of separation, would remove every alleged reason for Roman Catholic opposition to the use of the public schools. We think that the proposition which we have made would, if adopted, remove every such reason, and it is therefore such a proposition as we believed you had come prepared to accept. Its non-acceptance, apparently, is due to the determination of the minority to insist upon the most extreme, and in our opinion, unsound view of their legal rights.

We entered upon the task of seeking a settlement of the question at issue in the face of grave and obvious difficulties.

In the first place, so far as the re-establishment of separate schools is concerned, the question has for years been considered settled so far as the people of this province, to whom we are responsible, are concerned.

In the next place we have hitherto believed that a state aided separate school system, and that only, would be accepted by the minority. This view we have repeatedly stated, and we have not yet been authoritatively informed to the contrary.

That our contention in this respect was, and is correct, is shown by your proposition which indubitably means a system of schools separating by law Protestants from Roman Catholics and wholly dependent for support upon municipal taxation and the legislative grant.

It appears also that any settlement between the government of the Dominion and that of Manitoba must, by the very terms of your instructions, be subject to the sanction of a third party, and while all the members of both governments might approve of our proposition, or any other submitted as containing everything that in reason and in equity ought to be conceded, nevertheless that approval would be worthless without the sanction of the representatives of the minority.

In a word we are absolutely debarred from conceding a system of Roman Catholic and state aided separate schools, while the representatives of the minority, and, as a consequence, the Federal Government will accept nothing else.

In conclusion we have the honour to state that, notwithstanding the failure of the present negotiations, the government of the province will always be prepared to receive and discuss any suggestions which may be made with a view to removing any inequalities that may be shown to exist in the present law.

CLIFFORD SIFTON,
J. D. CAMERON.

EXTRACT *from a Report of the Committee of the Honourable the Privy Council, approved by His Excellency on the* 17*th March,* 1896.

The Committee of the Privy Council have had under consideration, a report, dated 16th March, 1896, from the Honourable Sir Mackenzie Bowell, Prime Minister, to the effect that, on the 9th of March instant, he communicated to His Honour the Lieutenant-Governor of Manitoba, a statement made that day by the Honourable Sir Charles Tupper, Bart., in the House of Commons, which statement is as follows:—

"Since answering the question asked a few days ago by the member for North Simcoe (Mr. McCarthy,) the following telegram has been received by Sir Donald Smith:—

"WINNIPEG, 2nd March, 1896

"Your telegram has received most careful consideration of myself and colleagues. While fully appreciating all you say, it is quite clear to us that we can only proceed to Ottawa for the purpose of holding a conference, upon the official invitation of the Dominion Government. I fully appreciate your very kind offices in this matter. In view of the assurance that the Government of Manitoba are willing to have a conference, the government propose, so soon as the second reading of the Remedial Bill is carried, to have a conference with Mr. Greenway's Government, with a view to arrive at a settlement of this question on terms that will be satisfactory to his government and the minority of Manitoba, but in the meantime to proceed with the question before the House, *de die in diem*, as previously arranged."

(Sd), GREENWAY.

The Prime Minister adds that, to the foregoing communication, the following reply was received on the 16th of March, instant:—

"GOVERNMENT HOUSE, WINNIPEG, 10th March, 1896.

"DEAR SIR MACKENZIE,—

"I sent Mr. Greenway a copy of your telegram this morning, and had an interview with him after the legislature rose at six o'clock this evening. He takes the ground on behalf of the provincial government that, not being the complainants, it is not for them to volunteer suggestions. He says that the provincial government would treat with respect an official invitation to visit Ottawa. By 'official' he means an invitation by Order in Council, in which would be set forth clearly the object of the proposed visit, and the subject matters intended to be discussed at the suggested conference. At the same time, he stated frankly that he did not see what practical results would be attained by the proposed visit.

"Faithfully yours,

"(Signed,) J. C. PATTERSON.

"The Honourable
"Sir Mackenzie Bowell, K.C.M.G., &c., &c., &c."

The Prime Minister recommends that, in view of the foregoing, the Lieutenant-Governor of Manitoba be informed that your Excellency's advisers are prepared to Gold a conference with the government of Manitoba for the purpose of ascertaining whether legislation cannot be obtained from the legislature of Manitoba, during its present session, which will deal, in a manner satisfactory to the minority of Manitoba, with those grievances of the minority which are now before the House of Commons in connection with the Remedial Bill (Manitoba).

The Prime Minister further recommends that the Lieutenant-Governor of Manitoba be requested to inform his advisers that, immediately after the second reading of the Remedial Bill, your Excellency's Government proposes to send a deputation to Winnipeg, if they are prepared to receive it.

The Committee, concurring in the said recommendations, advise that the Secretary of State be authorized to forward a certified copy of this minute to the Lieutenant-Governor of Manitoba.

All of which is respectfully submitted for your Excellency's approval.

JOHN J. McGEE,
Clerk of the Privy Council.

EXTRACT *from a report of the Committee of the Honourable the Privy Council, approved by His Excellency on the 27th March*, 1896.

The Committee of the Privy Council, on the recommendation of the Prime Minister, advise that the Order in Council of 21st March instant, be amended by the insertion after the words "the Remedial Bill (Manitoba)" in the said Order in Council, of the words "the delegation are hereby given full power to effect an arrangement with the Government of Manitoba on such terms as shall be satisfactory to the said minority."

JOHN J. McGEE,
Clerk of the Privy Council.

APPENDIX D.

From the "Catholic Register" of the 9th April, 1896.

NO CHANCE OF SETTLEMENT.

That there never was the slightest chance of an agreement being arrived at between the commissioners appointed by the Federal Government to confer with the Manitoba authorities and Messrs. Sifton and Cameron, acting for the Provincial Government, is made manifest by the publication of the official reports of the conference. Sir Donald Smith and Messrs. Desjardins and Dickey submitted the following proposals:—

(Here follow the proposals as in Appendix C.)

To all intents and purposes the Dominion commissioners might have submitted the Remedial Bill and asked that it be passed as a provincial statute, for the rights stated in the foregoing quotation from the commissioners' report include all the rights that remedial legislation is intended to secure or can secure. The main objection stated by Mr. Sifton to those proposals was the division of the people into denominational classes. Well, the people are divided into denominational classes, and any law or regulations enacted by the Government of Manitoba, or any other government, for the common education of children is not likely to restore Christian unity, or remove Christianity from the path of politicians.

From the "Catholic Record," 11th April, 1896.

THE MANITOBA CONFERENCE.

The proposals made by the Dominion commissioners were extremely moderate, yet they were such as would have been accepted by the Manitoba minority. It was proposed that in towns and villages wherein there are twenty-five and in cities where there are fifty Catholic children, there should be a school-house, or at least a room for their use, and that a Catholic teacher should be employed for them. In these schools the (Protestant) prayers and religious exercises now prescribed by the Public School Act should not be enforced, and this last provision should extend to localities where a majority of the children are Catholics.

In these Catholic schools, text-books should be such as would not offend the religious views of Catholics, but the books should be satisfactory to the Advisory (public school) Board.

On the Advisory Board and the Board of Examiners there should be Catholic representation, and Catholics should have assistance for the maintenance of a Catholic normal school.

In all other respects the Catholic schools should be subject to the Manitoba School Acts, but two years should be allowed to enable those teachers who have not certificates to qualify before being subjected to the strict application of the present requirements of the law.

If these conditions had been accepted, the commissioners promised, on the passing of the necessary legislation by the Legislature of Manitoba, that the Remedial Bill now before Parliament would be withdrawn, and any rights and privileges claimed by the minority would remain in abeyance, and not be further insisted upon.

We have heard much during the discussion of this question, of unreasonable requirements on the part of the Catholic minority, and also of their desire to maintain

inefficient schools. It was in fact on this supposed inreasonableness of the Catholics that Messrs. Attorney General Sifton and D'Alton McCarthy laid most stress in their anti-remedial speeches, especially during the election campaign in Haldimand, but certainly there is not in the proposals of the commissioners anything to justify such a statement.

The point on which the Catholics of Manitoba insist is that Catholic teaching be allowed for Catholic children and not that they shall be allowed to have inefficient schools, and there is no good reason why the guarantees under which Manitoba entered into the Canadian Confederation should not be faithfully observed.

Messrs. Sifton and Cameron, on behalf of the Manitoba Government, objected to those proposals merely by a series of quibbles, to the effect that the Catholic schools as proposed by the commissioners would be necessarily inferior, and that it is against the public interest that there should be any separation between children of different faiths.

The commissioners proposals were not immutable as to details, if the Greenway Government had shown any disposition to be conciliatory, but instead of this they complained that the Remedial Bill now before Parliament had not been held in abeyance. It is evident, therefore, that the sole purpose of the Manitoba Government in arranging for a conference at all, was to defeat the Remedial Bill, or to delay it for another year, and perhaps thus to prevent its becoming law.

"The Casket," Antigonish, N. S., 9th April, 1896.

The official report of the negotiations between the Dominion commissioners and the representatives of the Government of Manitoba, while it removes the last hope of a voluntary settlement of the school question, is satisfactory inasmuch as it clears the air of the clouds of dust that have been purposely stirred up around the subject and leaves the issue standing out boldly and distinctly. We now know just what Manitoba will do and what she will not do to effect a settlement. The commissioners asked the Manitoba Government to establish by law, in the towns and cities where there are Catholic pupils in considerable numbers, a system practically the same as that which obtains by practice in the city of Halifax, and the Manitoba Government, through its authorized representatives, refused most pointedly even to entertain the proposition—not because of the Remedial Order; not because of the Remedial Bill; not because their "back was up"; not because of "threats" of "coercion"; but because they are opposed to the principle of separate schools in any form. In other words they assured the Dominion commissioners that they meant what they said when they declared in their last official communication on the subject that they "positively and definitely rejected the proposition to establish a system of separate schools in any form." They went to the country, they say, on that platform, and, having been returned upon it, it is impossible for them now to recede from it. They have burned their boats and cannot retreat. Therefore they cannot even entertain the proposition to establish the Halifax school system.

* * * * * *

As a sacrifice for peace sake the Manitoba minority, it would appear, consented to accept the Halifax system, though they had been guaranteed a great deal more; but the Greenway Government positively refuse to give them that, and offer something which they cannot accept.

From the North-west Review, 8th April, 1896.

SUNNY WAYS.

The Ottawa commissioners may rest assured of our deep gratitude for their honest and patient efforts in our behalf. Nothing could exceed or even equal the kindness and generous hospitality of Sir Donald A. Smith, the calm reasonableness of the Hon. Mr. Dickey and the unruffled urbanity of the Hon. Mr. Desjardins.

One thing is plain as a pikestaff: the Local Government have been approached with the sunniest of "the sunny ways of patriotism," and yet those gentle and persuasive rays have failed either to penetrate or melt those icy hearts. Mr. Laurier himself, wreathed in smiles and breathing honeyed phrases, could not have made a nobler effort.

"The True Witness," 8th April, 1896.

From an article entitled "The Winnipeg Conference."

In view of the stand taken by the Dominion Government on Remedial Legislation many were at a loss to conceive what proposition could be made that would be satisfactory to the minority embracing less than the scope of the measure now before the House of Commons. A moderation of the demands made on behalf of the Catholics in the subjoined proposals will be a surprise to most people.

(Here follow the propositions.)

Could anything less exacting have been put forward. That the minority should have been willing to accept such a settlement only proves that there exists in their hearts a strong desire to avoid conflict they are anxious for peace.

From "La Presse," 6th April, 1896.

Our readers must have seen that our representatives have made all the concessions and the sacrifices that the minority could do to arrive at a settlement which would have been acceptable to both parties.

* * * * * *

Greenway's Cabinet has refused to accept these reasonable offers, etc.

From "La Minerve," 4th April, 1896.

Referring to proposals made by Messrs. Dickey, Desjardins, and Smith.

(Translation)—The proposals of the Federal Government have gone as far as it was possible to go without sacrificing any of the essential rights confirmed by the Imperial Court of the Privy Council.

APPENDIX E.

MEMORANDUM OF SETTLEMENT.

TERMS OF THE AGREEMENT MADE BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF MANITOBA FOR THE SETTLEMENT OF THE SCHOOL QUESTION.

1. Legislation shall be introduced and passed at the next regular session of the Legislature of Manitoba embodying the provisions hereinafter set forth in amendment to the "Public Schools Act," for the purpose of settling the educational questions that have been in dispute in that province.

2. Religious teaching to be conducted as hereinafter provided :—

1. If authorized by a resolution passed by a majority of the school trustees, or,

2. If a petition be presented to the board of school trustees asking for religious teaching and signed by the parents or guardians of at least ten children attending the school in the case of a rural district, or by the parents or guardians of at least twenty-five children attending the school in a city, town or village.

3. Such religious teaching to take place between the hours of 3.30 and 4.00 o'clock in the afternoon, and to be conducted by any Christian clergyman whose charge includes any portion of the school district, or by a person duly authorized by such clergyman, or by a teacher when so authorized.

4. Where so specified in such resolution of the trustees, or where so required by the petition of the parents or guardians, religious teaching during the prescribed period may take place only on certain specified days of the week instead of on every teaching day.

5. In any school in towns and cities where the average attendance of Roman Catholic children is forty or upwards, and in villages and rural districts where the average attendance of such children is twenty-five or upwards, the trustees shall, if required by the petition of the parents or guardians of such number of Roman Catholic children respectively, employ at least one duly certificated Roman Catholic teacher in such school.

In any school in towns and cities where the average attendance of non-Roman Catholic children is forty or upwards, and in villages and rural districts where the average attendance of such children is twenty-five or upwards the trustees shall, if required by the petition of the parents or guardians of such children, employ at least one duly certificated non-Roman Catholic teacher.

6. Where religious teaching is required to be carried on in any school in pursuance of the foregoing provisions and there are Roman Catholic children and non-Roman Catholic children attending such school, and the school-room accommodation does not permit of the pupils being placed in separate rooms for the purpose of religious teaching, provisions shall be made by regulations of the Department of Education (which regulations the board of school trustees shall observe) whereby the time allotted for religious teaching shall be divided in such a way that religious teaching of the Roman Catholic children shall be carried on during the prescribed period on one-half of the teaching days in each month, and the religious teaching of the non-Roman Catholic children may be carried on during the prescribed period on one-half of the teaching days in each month.

7. The Department of Education shall have the power to make regulations not inconsistent with the principles of this Act for the carrying into effect the provisions of this Act.

8. No separation of the pupils by religious donominations shall take place during the secular school work.

9. Where the school-room accommodation at the disposal of the trustees permits, instead of allotting different days of the week to the different denominations for the purpose of religious teaching, the pupils may be separated when the hour for religious teaching arrives, and placed in separate rooms.

10. Where ten of the pupils in any school speak the French language (or any language other than English) as their native language, the teaching of such pupils shall be conducted in French (or such other language) and English upon the bi-lingual system.

11. No pupils to be permitted to be present at any religious teaching unless the parents or guardians of such pupils desire it. In case the parents or guardians do not desire the attendance of the pupils at such religious teaching then the pupils shall be dismissed before the exercises, or shall remain in another room.